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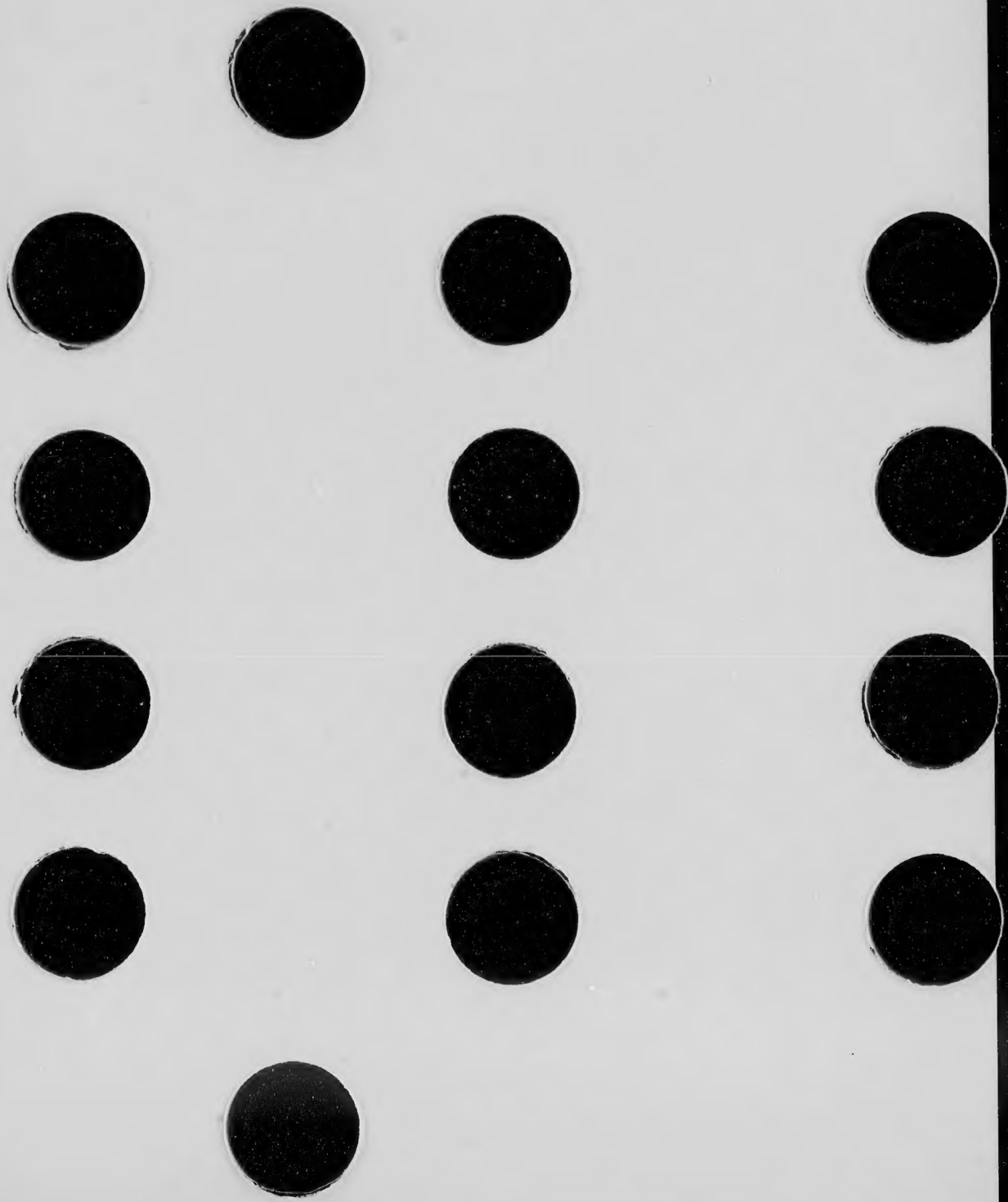

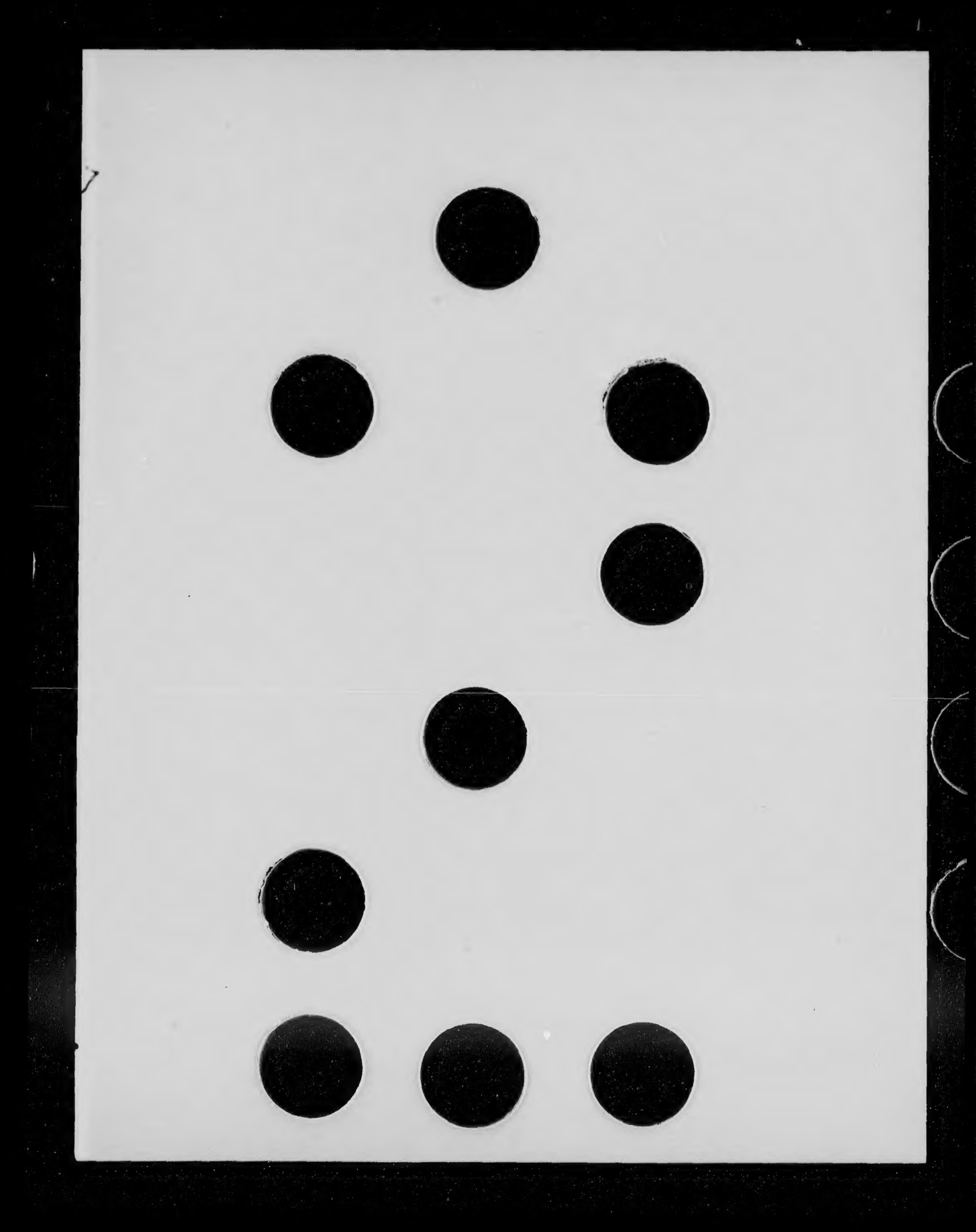

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Tuesday - May 5, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the April 14, 1992, City Council minutes.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-56 - RESOLUTION CONDEMNING VIOLENCE IN THE RODNEY KING INCIDENT AND PRAISING NON-VIOLENT PROTEST IN THE CITY OF ASHEVILLE

Vice-Mayor Ellison read a resolution stating that the City Council does not condone the violence that erupted from the Rodney King verdict and praised the residents of the City of Asheville for venting their frustrations through non-violent demonstrations and community meetings.

Councilman Moore moved for the adoption of Resolution No. 92-56. This motion was seconded by Councilwoman Field and carried unanimously.

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B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "NURSING HOME WEEK"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Nursing Home Week" in the City of Asheville and presented it to Ms. Marsha Kaufman who urged everyone to take time out of their busy schedules and become acquainted with the quality of care, service and management provided by nursing facilities across the country.

C. PROCLAMATION PROCLAIMING THE WEEK OF MAY 3-9, 1992, AS "RESPECT FOR LAW WEEK"

Mayor Michalove proclaimed the week of May 3-9, 1992, as "Respect for Law Week" in the City of Asheville and presented it to Police Chief Gerald Beavers.

D. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "ASHEVILLE'S HERITAGE WEEK" AND "NATIONAL HISTORIC PRESERVATION MONTH"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Asheville's Heritage Week" and the month of May 1992 as "National Historic Preservation Month" in the City of Asheville. He presented the proclamation to Ms. Jane Matthews who passed out information on various activities that will be taking place in May.

E. PROCLAMATION PROCLAIMING MAY 7, 1992, AS "NATIONAL DAY OF PRAYER"

Mayor Michalove proclaimed May 7, 1992, as "National Day of Prayer" in the City of Asheville.

F. PROCLAMATION PROCLAIMING THE WEEK OF MAY 3-9, 1992, AS "PUBLIC SERVICE EMPLOYEE RECOGNITION WEEK"

Mayor Michalove proclaimed the week of May 3-9, 1992, as "Public Service Employee Recognition Week" in the City of Asheville and recognized the following City of Asheville employees who are finalists in the Public Service Employee Recognition Program:

Outstanding Manager	-	James M. Harrison Jr.
Outstanding Supervisor	-	Kenneth R. Kendall
Outstanding Professional	-	Iola P. Byers
Outstanding Clerical	-	Cheryl S. Lunsford
Outstanding Crafts	-	Fred McKenzie
Outstanding Technician	-	Tommy Brooks/Chris Morgan
Equal Employment Opportunity Service	-	Oralene Simmons
Heroic Act	-	Joseph D. Palmer

G. PROCLAMATION PROCLAIMING THE WEEK OF MAY 10-16, 1992, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Michalove proclaimed the week of May 10-16, 1992, as "Emergency Medical Services Week" in the City of Asheville and presented it to Fire Chief John Rukavina.

Firefighter Tim Hinman passed out a report showing a breakdown of the 265 reports of medical emergencies the Asheville firefighter EMTs responded to during the month of March, 1992.

H. PROCLAMATION PROCLAIMING THE MONTH OF MAY 1992 AS "NATIONAL SENIOR CITIZENS' MONTH"

Mayor Michalove proclaimed the month of May 1992 as "National Senior Citizens' Month" in the City of Asheville and presented it to Ray Kisiah, Director of Parks, Recreation and Public Facilities.

I. PROCLAMATION PROCLAIMING THE WEEK OF MAY 11-17, 1992, AS "NATIONAL PUBLIC WORKS WEEK"

Mayor Michalove proclaimed the week of May 11-17, 1992, as "National Public Works Week" in the City of Asheville and presented it to Assistant Public Works Director Larry Ward.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 - HENDERSONVILLE ROAD (KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY)

ORDINANCE NO. 1969 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 - HENDERSONVILLE ROAD (KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY)

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, said that a petition for the annexation of a non-contiguous area located at 2310 Hendersonville Highway was received on March 12, 1992. She said that the City Clerk has certified the sufficiency of the petition. The property is owned by the Asheville Oil Company Inc. and leased to Bosco's Italian Eatery Inc. The non-contiguous area proposed for annexation meets all of the requirements of N. C. Gen. Stat. sec. 160A-58.

Ms. Tallerday said the Asheville Fire Department is negotiating an agreement with the Skyland Volunteer Fire Department to provide fire protection service to the property proposed for annexation on a first response basis in case of an emergency. She said the Asheville Fire Department and the Skyland Volunteer Fire Department have decided to base payment for these services on the amount of tax paid for the property based on the fire district tax rate. The annual compensation to the Skyland Volunteer Fire Department, based on a rate of $.08 per $100 valuation, would be equal to approximately $315.84.

She said the Asheville Police Department will provide law enforcement services to this area. There are no additional costs to the City to provide law enforcement services.

She said the area proposed for annexation is presently served by a 6" public water main located along U.S. Highway 25 which is maintained by the Asheville-Buncombe Water Authority. The area proposed for annexation is also served by an 8" public sewer line along U.S. Highway 25 owned by Buncombe County and maintained by the Metropolitan Sewerage District. There will be no additional costs to the City to provide water services.

The area proposed for annexation is serviced by U.S. Highway 25 and therefore would remain the North Carolina Department of Transportation's responsibility to maintain. Maintenance of private roads and lighting on private property are the owner's responsibility. The entrances to the property and the parking lot are private, and will, therefore, be maintained by the owner. There will be no additional cost to the City for street maintenance and street lighting.

The Public Works Department reports that due to the nature of the business, the property proposed for annexation is responsible for making arrangements with a private solid waste collector for daily service. There will be no impact on the Public Works budget as a result of this annexation.

The subject property does not exceed, when added to the area within all other satellite areas, 10% of the total area within the primary corporate limits of the City of Asheville.

The Asheville Oil Company, Inc., property is approximately 2.25 acres. The total of the land area of all current satellite areas in the City of Asheville is approximately 8.93 acres. Upon annexation of the Asheville Oil Company, Inc., property, the combined land for all satellite areas of the City of Asheville would be 11.18 acres. The total land acreage of the City of Asheville is approximately 36.12 square miles. Ten percent of the area of the City is 3.61 square miles or 2310.40 acres.

The real property values of the property under consideration for annexation is $394,800. The 1992 annual ad valorem revenues based on the City's tax rate of $.60 per $100 valuation would be $2,368.80.

Based on a valuation of $394,800 at the present fire district tax rate of $.08 per $100 valuation, the annual compensation to the Skyland Volunteer Fire Department would equal $315.84.

Mayor Michalove closed the public hearing at 4:28 p.m.

Mayor Michalove stated that members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Councilman Moore moved for the adoption of Ordinance No. 1969. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1969 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1969. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1969 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO FINAL APPROVAL OF A SITE PLAN FOR THE NEW INGLES TO BE LOCATED ON HENDERSONVILLE ROAD.

Mayor Michalove opened the public hearing at 4:30 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Ingles Markets, Incorporated, is proposing the redevelopment of an

existing 6.75 acre shopping center located on Hendersonville Road. The existing shopping center, which is zoned CH, contains an Ingles grocery store, a vacant Sky City store, and other retail space.

He said plans presented by the developer call for the demolition of the Sky City store and construction of a new 40,000 square foot Ingles grocery store, demolition of all or a portion of the existing Ingles store and construction of retail space. Approximately 19,000 square feet of new retail space will be constructed as part of the project. The existing Eckerd's Drug Store will remain.

He stated that utilities and fire protection are available at a level adequate to meet the needs of the proposed development. The developer will provide new utility service lines and will abandon sections of storm drainage lines located under buildings, replacing them with new lines. The site will be improved with landscaping as required to comply with the ordinances of the City of Asheville. Variances are being requested by the developer to permit a reduction in the width of a portion of the landscape strip located along the street frontage of the site and to permit a reduction in the number of required parking spaces.

He said that after reviewing the site plan, the Planning and Zoning Commission on April 1, 1992, recommended approval with the following contingencies:

1. Street trees must be spaced at least 15 feet apart;

2. City Council grant a variance to permit a reduction in width from 10 feet to 5 feet for the portion of the landscaping strip beginning at the north end of the site and ending at the planting island located in front of the 4,900 square foot retail shop;

3. City Council grant a variance to permit a reduction in the number of required parking spaces from 283 to 270; and

4. The developer must provide a revised site plan showing the proposed changes in the parking and the landscaping strip.

Mr. Green did state that the developer has already provided a revised site plan showing the proposed changes in the parking and the landscaping strip.

When questioned by Councilwoman Field about staff's recommendation of reducing the width for the portion of the landscaping strip, Mr. Green responded that the staff felt the developer should comply with the ordinance.

Mr. Don Whitlow, architect for the project, stated that the landscaping strip variance is being requested in order to allow more parking in the front of the new Ingles.

Mayor Michalove closed the public hearing at 4:37 p.m.

Vice-Mayor Ellison moved to accept the recommendation of the Planning and Zoning Commission and approve the site plan subject to the four above contingencies. This motion was seconded by Councilman Peterson and carried on a 5-2 vote, with Councilwoman Field and Councilman Moore voting "no".

C. **PUBLIC HEARING RELATIVE TO FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES**

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Marvin Vierra, Community Development Director, said that the City anticipates receiving $1,342,000 through the CDBG Entitlement Program for 1992-93. The total budget including $22,500 of program income and prior year surplus will be $1,364,500. The City has received requests for CDBG funds totalling $2,071,030. The requests have been reviewed by the Housing and Community Development Committee and the Committee has recommended the funding as follows:

Hill/Cherry (Head of Montford) area	$ 405,500
City Wide Housing Rehabilitation	$ 264,600
Neighborhood Housing Services	$ 125,000
Mountain Housing Opportunities - HOPE 3	$ 15,000
Mountain Housing Opportunities - New Rental Housing	$ 100,000
Hospitality House Transitional Shelter	$ 27,000
YMICDC-South Pack Square Redevelopment	$ 114,500
Hillcrest Enrichment Program	$ 30,000
City Contracting Disparity Study	$ 45,000
A-B Community Relations Council	$ 14,500
CD Planning	$ 30,000
Minority Business Program	$ 44,000
CD Administration	$ 149,400
Total	$1,364,500

Vice-Mayor Ellison said that the Committee worked very hard in continuing the commitment of the City Council to provide affordable housing for the poor and elderly in the City.

Ms. Beth Maczka spoke in support of continuing those programs, such as Mountain Housing Opportunities, that further leverage federal funds for affordable housing.

Mr. Curtis Venable felt that CDBG funds should not be used for the City Contracting Disparity Study or the Minority Business Program because those programs benefit the citizens at large and should be funded through the general fund. He said that he did appreciate the continued funding of the non-profit programs.

Mr. Jim Barrett, attorney at Pisgah Legal Services, spoke about the need of housing for low and moderate income families. He commended the Council for doing what they could for housing but felt that some programs should be funded through the general fund, not CDBG funds.

Mr. Lewis Kraus, Director for Habitat for Humanity, thanked the Council for their support in the past. He expressed concern that Habitat for Humanity's proposal was not funded for this year.

Mr. Scott Dedman thanked the Council for the funds for Mountain Housing Opportunities and stressed the need for all CDBG funds to benefit the low and moderate income.

Ms. Karen Cragnolin asked that the Council reconsider granting Riverlink's proposal in which to continue the study of Chicken Hill.

Mr. Tony Sayer, Director of the Affordable Housing Coalition, thanked the City Council for their support and suggested that they might reconsider Habitat for Humanity's proposal for funding. He felt it was important to concentrate on projects that produce measurable results.

Mr. Larry Holt, Housing Authority of the City of Asheville, spoke about the number of units that have been and will be rehabilitated through the use of CDBG funds.

Mr. Tom Fitzpatrick stated that he has done two internal audits on the Neighborhood Housing Services and has found the money to be efficiently used.

Vice-Mayor Ellison was pleased that the Mayor will be appointing the head of the housing coalition to the

Housing and Community Development Committee. He stated that all the members of the Committee were concerned about the cost for administration of the program and they are continuing to try to reduce that amount and put more into the housing programs.

Mayor Michalove closed the public hearing at 5:10 p.m.

D. PUBLIC HEARING RELATIVE TO BRACKETTOWN ROAD AND WHITE PINE DRIVE

Mayor Michalove opened the public hearing at 5:11 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove stated that the City Council has looked at a lot of information, visited the site of this intersection, and has studied all the letters sent to them in order for them to make this important decision.

Councilman Moore moved to adopt Plan A (the design for the interchange of Brackettown Road and White Pine Drive which design was originally directed by the City Council on December 22, 1987). This motion was seconded by Councilwoman Field.

Mr. Rick Coleman, representing the Asheville Mall, stated that they have studied the comments relative to egress and ingress for emergency vehicles. He said that Jerry Vehaun, Director of Civil Preparedness, was of the opinion that 95% of the emergency vehicles make a left hand turn when coming off of White Pine Drive onto Tunnel Road. He said Mr. Vehaun made a statement to them that the double left hand turn lane would be beneficial to emergency vehicles.

Mr. Coleman said that he spoke with Mr. McCanless (with the County school bus system) and said Mr. McCanless felt that for safety purposes it would be beneficial to have a traffic signal at the intersection on the developer's Plan B. He said that they did contact the North Carolina Department of Transportation and they have secured a traffic signal design cycle for that intersection. Mr. Coleman urged the City Council to approve the developer's Plan B with this additional signal included.

Mr. Coleman said that in regard to the bus service onto the Mall property, he met two times with the Asheville Transit Authority ("ATA") and asked them to develop a suggested plan concerning the routing of the City buses onto

the Mall property. He said that the ATA did present a plan and a portion of that plan depends upon the improvement of the design of the intersection of White Pine Drive and Brackettown Road. He presented the Council with a letter from Wanda Winslow, Chairman of the ATA, which explains the ATA plan and also submitted a copy of the ATA plan. He also presented a letter from Jerry Vehaun relative to the left hand turn movement.

It was the consensus of the Council not to deal with the issue of City buses entering onto Mall property at this time.

In response to Councilman Swicegood's question relative to why City buses could not run on the Mall property with Plan A, Mr. Coleman responded that in accordance with the plan submitted by the ATA, 1/3 of Route 4 (the route which would be using the Mall) would be using the already congested White Pine Drive and Brackettown Road for ingress and egress and felt that the intersection would have to be improved before a plan like the ATA's could be adopted.

Mr. Hugh Murphy, President of the Kenilworth Forest Community Club Inc. presented the Council with a petition with almost 500 signatures urging the "Council to observe the rulings of both the Buncombe County Superior Court and the North Carolina State Court of Appeals which require R.L. Coleman Co., Inc. to alter the intersection of White Pine Drive and the private mall entrance known as Brackettown Road to a "T" status with White Pine Drive to maintain the right of way." He thanked the Council for listening to the residents of the area and understanding that kind of impact the developer's Plan B would have on the neighborhood.

Mayor Michalove closed the public hearing at 5:23 p.m.

Upon inquiry of Vice-Mayor Ellison, City Manager Bean said that the "T"ing of Brackettown Road and White Pine Drive would be the responsibility of the developer. He said the additional widening and improvements to White Pine Drive would be the responsibility of the City. He estimated the cost to be $14,000-$15,000 using the City workforce and anticipated 60 days for the City's portion of the work to be done.

Vice-Mayor Ellison felt that what swayed him to endorse Plan A was that Plan B eliminated the direct access of the homeowners to having a right-of-way and he felt it was not fair in this situation.

Councilman Worley felt that the neighborhood has a right of ingress and egress and hoped that with the "T" intersection, the traffic problem would be reduced. He feared, however, that in the future a second left hand turn lane might be needed.

The motion to adopt Plan A (the design for the interchange of Brackettown Road and White Pine Drive which design was originally directed by the City Council on December 22, 1987) made by Councilman Moore and seconded by Councilwoman Field was unanimously adopted.

At this time (5:30 p.m.) the City Council took a five minute recess.

III. OLD BUSINESS:

A. **ORDINANCE NO. 1970 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE BEAVERDAM RUN AREA UNDER THE AUTHORITY GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA**

City Manager Bean stated that he has met with the Beaverdam Run Homeowners Association since the public hearing on April 7 and there are still some issues of concern to them. He said that the Association will be meeting this week to consider some of those items and they will get back to us before the second reading scheduled for May 19. He said that they are aware that the first reading of the ordinance was being held today and that a joint report would be given to the Council prior to the second reading date.

Mayor Michalove said that Council has been furnished with copies of the ordinance and it would not be read in its entirety.

On a roll call vote of 5-2, Ordinance No. 1970 passed on its first reading, with Councilmen Peterson and Swicegood voting "no."

B. **REPORT FROM CITY ATTORNEY REGARDING TAX FORECLOSURE PROCEEDING RELATING TO 10 SUNSET SUMMIT AND CONSIDERATION OF THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA**

City Attorney Slawter said that at the February 4, 1992, meeting of the City Council, he was directed to proceed with the necessary actions to accomplish a tax foreclosure of the property located at 10 Sunset Summit in Asheville. As we completed our research of the public records to make a final determination of all parties necessary to such a proceeding, we discovered that there were 22 lienholders of record who would be necessary parties, in addition to the owner, Mrs. Brummer. Since he was one of those lienholders of record, and therefore had to be made a party defendant, Keith Snyder in the County Attorney's Office agreed to be the attorney of record in this foreclosure proceeding.

He said we were able to get two of the lienholders to cancel their liens on the public records prior to the institution of the lawsuit. Suit was then filed against Mrs. Brummer and the remaining 20 lienholders. Two additional lienholders have cancelled their liens on the public records since the filing of the suit. Service of process has been accomplished upon Mrs. Brummer and upon all of the lienholders except for a couple of exceptions which are being served by publication in the newspaper. Additional service is also being made upon Mrs. Brummer by newspaper publication.

He said that in addition to the number of parties involved and the complexities of the various liens against the property, we have encountered some delay in achieving service of process upon Mrs. Brummer in Florida and Tom Brummer in Canada. In addition, having the United States of America as a party defendant has been somewhat of a complicating factor. The final date by which all parties must file a written response with the Court if they wish to do so is anticipated to be during the second week of June. Thereafter, we expect to be able to obtain the necessary judgment providing for the sale of the property. The judicial sale that follows requires legal notice of at least 30 days, meaning that the sale could occur in mid-July. The highest bid placed at the judicial sale must remain open and subject to upset bids for a period of 10 days. If there is no upset bid, the sale can be confirmed and the property deeded upon the expiration of that 10 day period.

Mr. Slawter said the consideration of the third reading of the ordinance providing for the demolition of the structure located at 10 Sunset Summit was postponed until May 5, 1992, so that parties in interest who had previously been given notice of the initial public hearing on that question would not have to be re-notified, as they would if

the matter had not been continued to a specific date. He recommended that the third reading again be continued to a specific date. A continuance until the first City Council meeting in August would allow sufficient time to accomplish the foregoing, if things go smoothly.

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until August 11, 1992, without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

IV. NEW BUSINESS:

A. REPORT ON PATTON AVENUE LANDSCAPE PLAN

Mr. John Broadbooks, landscape architect for the project, said that tree locations were based upon many factors, including, but not limited to overhead wires, driver visibility, pedestrian space, etc. He said that the area west of South French Broad has numerous driveway entrances and he doesn't want to create site distance problems for people coming out of the driveways and unsignalized intersections. He was not in favor of tree lawns because of the needed continuity of tree grades for the corridor into the City.

Upon inquiry of Councilman Peterson, Mr. Broadbooks said that an average tree life would be 7-15 years.

Councilman Worley had a concern about where trees are located closer to the buildings and utility poles are near the curbs, pedestrians have to zig-zag to keep from hitting them.

Vice-Mayor Ellison questioned the $2,500 per year maintenance cost.

Upon inquiry of Councilman Swicegood, Assistant City Manager Charles Penny said that there are 39 trees to be installed from South French Broad to Clingman at a cost of $250.00 per tree, if installed by the contractor, with a one year guarantee.

Councilman Worley reminded the Council that tree lawns could be made up of all different types of surfaces that would require little or no maintenance.

Mr. Mike Calhoun, with Vaughn & Melton Engineers, did not recommend the inclusion of a tree lawn from South French Broad to Clingman Avenue because this is a commercial area with an abundance of driveways and unsignalized intersections.

Vice-Mayor Ellison suggested the number of trees be reduced and not put near any intersections or driveways.

Councilman Swicegood questioned why trees would create a safety hazard at the driveways and intersections when those same intersections have telephone poles located on them.

Upon inquiry of Councilwoman Field, Mr. Broadbooks said that there was no uniform spacing for the trees.

In response to Mayor Michalove, City Manager Bean said that the streetscape plan was accepted in concept only by the City Council.

Mr. Julian Price, member of the Tree/Greenway Commission, spoke in favor of the tree lawns. He felt it is a good design and would be healthy for the trees. He thought greenery in an urban area would be fine. He said there was a lot of flexibility with a tree lawn - not only regarding ground cover but the flexibility of moving the trees, which can't be done in tree grates.

Upon inquiry of Councilwoman Field, Assistant City Manager Penny said that the sidewalks vary in width from 6' to 7' and a 4' tree lawn would result in a 2' to 3' sidewalk. He said the minimum width of a sidewalk should be 4'.

In response to Councilman Swicegood's question about the life of a tree in a tree lawn versus a tree pit, Mr. Price said a tree in a tree lawn might live for up to 35 years whereas a tree in a tree pit might live for 10 years. He said the trees have a better chance to live in a tree lawn.

Assistant City Manager Penny felt that this was a very difficult decision for the Council to make and suggested a 4x8 tree hole.

In response to Mayor Michalove, Assistant City Manager Penny said that if a tree lawn were to be constructed at this stage in the project that 1) a portion of 18", non-reinforced concrete curbing would have to be pulled out because it was designed to rest against the concrete sidewalks (with no cost involved); 2) an estimated cost of $1,000 for the consulting engineer to redesign the sidewalks from French Broad Avenue to Clingman Avenue (which would take approximately 1 week); and 3) the time involved to have a change order processed. He said that if the Council decides to just move the trees to the curbs, without a tree lawn, there will be no delay in the project.

A letter was discussed concerning the consensus of the Streetscape Task Force with regard to a tree lawn along the Patton Avenue corridor.

Mr. Mike Green felt that a tree lawn is an excellent idea except not on Patton Avenue. He felt that since the project has been moving along so well, changes in the middle of it would ultimately cause delays. He was in favor of 4x4 tree pits and felt moving them close to the curb would be acceptable.

A representative from Blooming Art Floral Shop read a letter supporting greenways.

Assistant City Manager Penny said that should the City change the current design to include a tree lawn, the estimated savings to the project would be approximately $6,300, but there would be the $1,000 consulting engineer cost (to redesign the sidewalks), resulting in a total savings of $5,300. Although there is some savings in the cost of the current project, the estimated cost for maintaining this area by City crews is approximately $2,500 per year which would eliminate any savings which the City may realize within a two year period. He said the maintenance cost would be continuous.

City Manager Bean said that he would recommend the City not tearing out the curbing already in place if the Council decided to go with a tree lawn.

Councilman Moore moved to place the trees at the curb in 4x8 frames in order to expedite the project and not expend any more money. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Swicegood voting "no."

City Manager Bean did state that even though the City can use the 4x4 sections already purchased to make 4x8 frames, there will be additional costs for the 4x8 grates to be placed over the pits in the future.

B. ORDINANCE NO. 1971 - BUDGET AMENDMENT RELATIVE TO APPROPRIATION OF CDBG FUNDS FOR WNC HABITAT FOR HUMANITY'S OAKWOOD SUBDIVISION

City Manager Bean said WNC Habitat for Humanity has requested $9,450 to pay for the cost of installation of 21 sixteen foot driveway aprons in the new Oakwood Subdivision currently under construction. In the past the Street Division has installed the driveway aprons for the cost of

materials to each house built by Habitat. Since the Street Division will not be able to provide the usual assistance because of the large number of aprons, Habitat has secured a contractor who will install the aprons for $450 each. The Community Development Block Grant fund contains sufficient surplus funds for this request.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1971. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1971 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 72

V. CONSENT AGENDA:

A. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND SKYLAND VOLUNTEER FIRE DEPARTMENT, INC., TO PROVIDE FIRE PROTECTION SERVICES TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 2310 HENDERSONVILLE ROAD (ASHEVILLE OIL COMPANY, INC., PROPERTY)

At the request of the City Attorney, this item was deleted from the agenda.

B. RESOLUTION NO. 92-57 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING PROPERTY IN THE LEICESTER TOWNSHIP

Summary: The City of Asheville owns property in the Leicester Township consisting of a .93 acre tract previously used as the Mt. Carmel water pumping station. Mark Carlson has made an offer to purchase said property for $6,074 "as is" and the most recent Buncombe County appraisal of said property was $6,100. The City has no anticipated use for the property. Before the sale can be authorized, notice of the offer must be published in a newspaper of general circulation. This resolution will direct the City Clerk to publish the required notice. Assuming there is no upset bid, a subsequent resolution will authorize the Mayor to execute a deed of conveyance.

RESOLUTION BOOK NO. 19 AT PAGE 172

C. **RESOLUTION NO. 92-58 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE TWO SEPARATE BOUNDARY LINE AGREEMENTS WHICH RELATE TO PROPERTY RECENTLY ACQUIRED BY THE CITY OF ASHEVILLE FROM DANIEL BOONE COUNCIL, INC., BOY SCOUTS OF AMERICA, FOR THE ASHEVILLE REGIONAL AIRPORT PROPERTY**

Summary: The Mayor will be authorized to execute two Boundary Line Agreements, one involving the "Shuford property" and one involving the "Fitzpatrick property," which relate to the boundaries of property recently acquired by the City of Asheville from Daniel Boone Council, Inc., Boy Scouts of America, for the Asheville Regional Airport property.

RESOLUTION BOOK NO. 19 AT PAGE 173

D. **RESOLUTION NO. 92-59 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 32 TONS OF SCRAP METAL BY SEALED BID**

Summary: The Fire Department has accumulated approximately .75 ton of scrap metals consisting of steel garage doors, cast iron, brass and approximately .4 ton of wiring, cable and conduit. The Water Maintenance Division has accumulated 30.5 tons of scrap metals consisting of approximately 22 tons of fire hydrants, 7.5 tons of cast iron, .4 tons of brass and .6 ton of copper tubing. Requests to dispose of these metals have been made by the Director of Water and Engineering and the Fire Chief.

RESOLUTION BOOK NO. 19 AT PAGE 174

E. **RESOLUTION NO. 92-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM SCHEDULES WITH UNISYS CORPORATION TO PROVIDE COMPUTER HARDWARE AND SOFTWARE PRODUCTS AND SERVICES**

Summary: Hardware and software products purchased from UNISYS are added to a support agreement with UNISYS through the use of supplemental schedules.

RESOLUTION BOOK NO. 19 AT PAGE 176

F. **APPOINTMENT OF COMMISSIONER OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Summary: The term of Annette Coleman will expire on June 11, 1992. Pursuant to the North Carolina Housing

Authorities Law, as amended, the Mayor will reappoint Mrs. Coleman as a member of the Housing Authority of the City of Asheville to serve a term of five years, term expiring June 11, 1997.

G. BIDS RELATIVE TO ONE MULTI-PURPOSE, FOUR WHEEL DRIVE ARTICULATING WHEEL LOADER/BACKHOE FOR PARKS AND RECREATION DEPARTMENT

Summary: Recommendation to award to sole bidder, Viking Equipment Company, Asheville, North Carolina, in the amount of $38,683.46 for the purchase of a 1991 Melroe 'Bobcat" Model 2410/914B.

See bid summary attached hereto and made a part hereof.

Vice-Mayor Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION AUTHORIZING THE CITY MANAGER TO SIGN LEASE TO RELOCATE PERSONNEL AND EQUIPMENT TO 300 RIVERSIDE DRIVE

City Manager Bean said plans to vacate the present Public Works facilities on South Charlotte Street, earlier than originally anticipated in the contract, have been finalized. This is to allow the demolition of the present old building and the completion of new buildings C, D, E and F by February 1993 or approximately 9 months earlier than originally scheduled.

This was made possible when the old Westall Lumber Company buildings, located at 300 Riverside Drive, became available for rental on a short term basis. These facilities appear to be adequate to house both personnel and equipment and it is planned to occupy them on or about May 11, 1992, until October 31, 1992. A fraction over 5-1/2 months at $1,700/month or $9,672.

Since this move to accommodate the accelerated schedule would be of benefit to all concerned and not included in the contract, the contractors were requested to contribute. To date Argo Construction Company has agreed to share $5,000 of the cost and M. B. Haynes will contribute $800. We have not heard from Price Piping Company or Pyatt Heating and Air Conditioning Company but in any event their benefit would be less and their contribution would be small. This would

leave a maximum of $3,872 that the City would have to contribute. This we feel can be absorbed from the City's portion of the contract.

Councilwoman Field moved to authorize the City Manager to sign a lease for rental of 300 Riverside Drive, on a short term basis. This motion was seconded by Councilman Moore and carried unanimously.

B. POLICY ON EMERGENCY REQUESTS FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

Mr. Marvin Vierra, Community Development Director, asked that the following policy be adopted by the City Council:

The Community Development Block Grant (CDBG) Program Budget does not contain a line item for contingency. The budget therefore does not provide for payment of any cost overrun on CDBG funded projects. Any cost overrun is the responsibility of the recipient of CDBG funds.

Should unexpected program income or surplus funds exceeding $50,000 become available prior to August 15 each year, applications will be received for new projects or cost overruns on existing projects. These applications will be received during the month of September. Applications during the September cycle will be reviewed on a competitive basis and ranked using the ranking process from the March cycle of the same year.

This policy shall be distributed with the notice of grant approval to all applicants approved for CDBG funding.

Vice-Mayor Ellison moved for the adoption of the policy on emergency requests for Community Development Block Grant funds. This motion was seconded by Councilman Peterson and carried unanimously.

C. CLAIMS

City Manager Bean said the following claims have been received by the City of Asheville during the week of April 27 - May 1, 1992: Donald Johnson (Transit Authority bus); Teresa Wells (Water); and Annie Weaver Trust (Water).

He said these claims have been referred to the appropriate insurers for investigation.

D. **LAWSUIT**

City Manager Bean said the City was served with a lawsuit on April 20, 1992, as follows: Donald Eugene Johnson (alleged personal injury from bus accident). He said that the City was served with a small claims action on April 24, 1992, as follows: John & Ramona Acuff (alleged confiscation of personal property).

He said these have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:50 p.m.

William J. Holcomb
CITY CLERK

W. M. Michalove
MAYOR

BID SUMMARY
BID REQUEST NO. 397-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: WEDNESDAY, APRIL 15, 1992

ONE (1) MULTI-PURPOSE, FOUR WHEEL DRIVE ARTICULATING
WHEEL LOADER/BACKHOE FOR PARKS AND RECREATION DEPARTMENT

	VIKING EQUIPMENT COMPANY ASHEVILLE, N. C.
ITEM #1: 1 MULTI-PURPOSE FOUR WHEEL DRIVE ARTICULATING WHEEL LOADER/BACKHOE	
MAKE:	Melroe Bobcat
MODEL:	2410/914B
YEAR:	1991 New
TOTAL COST:	$38,683.46
TERMS:	Net 30
DELIVERY:	April 24, 1992

The following companies submitted a 'No Bid': General Tractor, Asheville, N. C.
N. C. Equipment, Asheville, N. C.

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Tuesday - May 19, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the May 5, 1992, City Council minutes.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-61 - RESOLUTION IN MEMORY OF ROBERT H. McDONALD, SR., CITY OF ASHEVILLE TRAFFIC ENGINEER

Mayor Michalove read the resolution and presented it to Bob's wife, Jean, and his children, Suzanne and Rob. He expressed the City of Asheville's deep appreciation of Bob's 22 years of service to this community and extended the City Council's sincere sympathy upon his passing.

Upon motion of Councilman Moore, seconded by Vice-Mayor Ellison, Resolution No. 92-61 was unanimously adopted.

RESOLUTION BOOK NO. 19 AT PAGE 177

B. PROCLAMATION PROCLAIMING JUNE 1, 1992, AS "NAVY LEAGUE DAY"

Mayor Michalove read the proclamation proclaiming June 1, 1992, as "Navy League Day" in the City of Asheville and presented it to Mr. Ken Vasilik.

C. PROCLAMATION PROCLAIMING MAY 19, 1992, AS "BIKE TO WORK DAY"

Mayor Michalove proclaimed May 19, 1992, as "Bike to Work Day" in the City of Asheville and presented it to Councilwoman Field.

II. PUBLIC HEARINGS: None

III. OLD BUSINESS:

A. **ORDINANCE NO. 1970 - SECOND READING OF AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE BEAVERDAM RUN AREA UNDER THE AUTHORITY GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA**

Mayor Michalove said that the first reading of this ordinance passed on May 5, 1992.

Mayor Michalove said copies of the ordinance have been previously furnished to the Council and it would not be read in its entirety.

On a roll call vote of 5-2, with Councilmen Peterson and Swicegood voting "no", Ordinance No. 1970 passed on its second reading.

B. **ORDINANCE NO. 1969 - THIRD READING OF AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 - 2310 HENDERSONVILLE ROAD (KNOWN AS THE ASHEVILLE OIL COMPANY, INC., PROPERTY)**

Mayor Michalove said that the first and second readings of this ordinance were passed on May 5, 1992.

Mayor Michalove said copies of the ordinance have been previously furnished to the Council and it would not be read in its entirety.

On a roll call vote of 7-0, Ordinance No. 1969 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 47

IV. NEW BUSINESS:

A. **PRESENTATION OF THE 1992-93 ANNUAL OPERATING BUDGET**

City Manager Bean presented the City Council with the 1992-93 annual operating budget and stated that the public hearing would be held on June 2, 1992. He then summarized the following budget message:

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ASHEVILLE

May 19, 1992

The Honorable Mayor and
Members of City Council
City of Asheville
Post Office Box 7148
Asheville, North Carolina 28802

Dear Mayor and Members of City Council:

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the recommended budget for fiscal year 1992/93 is presented for your consideration. This budget contains adequate revenues to meet expenditures while continuing essential city services for the coming year. The following summary shows the proposed budget for each fund along with a comparison of the budget for fiscal year 1991/92.

FISCAL 1992/1993			*OPERATING SUMMARY*	
	ACTUAL 1990/91	APPROVED 1991/92	ESTIMATE 1991/92	PROPOSED 1992/93
GENERAL FUND	40,142,074	41,373,279	40,181,241	41,617,650
ENTERPRISE FUNDS:				
WATER OPERATIONS	13,437,245	15,395,445	13,788,658	16,200,000
PARKING SERVICES	1,355,653	1,237,101	997,957	904,793
CIVIC CENTER	1,517,485	1,555,373	1,527,008	1,563,671
FESTIVALS	844,804	1,016,426	825,562	1,050,400
LESS: INTERFUND TRANSFERS	-2,255,131	-2,473,552	-2,097,545	-2,116,333
TOTAL OPERATIONS	55,042,130	58,104,072	55,222,881	59,220,181
INTERNAL SERVICE FUNDS (NOTE):				
INFORMATION SERVICES	2,136,649	1,805,715	2,150,043	2,233,061
PRINT SHOP	237,397	259,285	215,356	201,281
ENGINEERING	637,480	671,448	664,875	874,849
FLEET MANAGEMENT	2,230,270	2,740,735	2,821,940	2,499,627
CENTRAL WAREHOUSING	690,949	621,798	621,443	634,262
TOTAL INTERNAL SERVICE	5,932,745	6,098,981	6,473,657	6,443,080
NOTE: INCLUDED FOR INFORMATION ONLY, THESE ACTIVITIES' CHARGES ARE INCLUDED IN OPERATING BUDGETS ABOVE.				

OFFICE OF THE CITY MANAGER

CITY OF ASHEVILLE
POST OFFICE BOX 7148
ASHEVILLE, NC 28802
(704) 259-5604

Not included in the summary are the ongoing capital projects funds which include the General Capital Reserve, Street and Sidewalk Improvement, Downtown Development, Community Development and other ongoing projects. Each of these funds have revenues which were appropriated when the project was authorized. These funds do not need to be re-appropriated on an annual basis.

Also, you will note in the statistical summary that Internal Service Funds are listed for illustrative purposes only. These activities provide a service to other departments and the actual expense is budgeted within the appropriate departmental budget. We have subtracted from the budget summary the amount of other interfund transactions which are included in the operating budgets.

The summary indicates a total budget increase of less than two percent (2%). When the increase in the Water Fund is removed, the total increase is one half of one percent (.5%). We anticipated that 1991/92 would be a very difficult year and that we would be entering 1992/93 with a deficit. This budget continues the constraints instituted with the economic slowdown in early 1990/91. A partial hiring freeze continues and, when adjusted for pay and inflation increases, this budget actually reflects a spending decrease. The combined effects of reduced sales tax and other economically sensitive revenues and the results of the decision by the General Assembly to "freeze" certain state shared revenues have put us in a position of little or no increase in resources. We are already experiencing decreasing service levels. Without restoration of state cuts, combined with new revenue sources, we will most certainly be facing ad valorem increases or further service cuts.

GOAL SETTING

The primary objective in preparing this budget was to develop a plan of services to meet the City of Asheville's Mission Statement, *". . . to provide for the professional delivery of public services while being good stewards of public resources, in order to enhance the quality of life in Asheville and Western North Carolina."* This budget reflects, to the extent possible, the City Council's *"Strategic Plan"* which was developed by the City Council in January 1992. These goals and objectives along with the *"2010 Asheville City Plan"*, provided the city-wide directive for the management by objectives system. With the City Council setting city-wide goals and objectives and with the city budget being the instrument that allocates resources, we hope that objectives can be met on both an organizational and individual basis. The goal setting process is an integral and essential element in budget preparation. The 1992/93 budget does not contain any service enhancements or services restorations that were proposed in departmental budgets. The operating budgets generally reflect the goals and objectives that have been set by the City Council. To the extent that service restorations or enhancements do provide for new programs and an increased level of services that directly address some of the Council's goals and objectives, they will need to be evaluated in light of available resources.

BUDGET PROCESS

Preparation of the 1992/93 budget began in December when instructions were given to departments to develop a base budget that maintains the current hiring freeze and continues service levels. Within this base budget we are always striving for an increase in the quality of operations and we look, with a critical eye, at ways to do a better job with available resources. "Service Restorations" and "Service Enhancements" were requested separately and are omitted from the base budget. Departmental budgets were reviewed in detail by the Audit & Budget staff prior to my review with each department head. Prior to the City Council's work sessions we realized that this budget would be one of the most difficult that we have had to face in a number of years. Because of this problem, the budget process focused on "fine tuning" all revenue and expenditure data. This "hard look" required us to meet on several occasions to find ways to reduce costs

even if it meant a reduction in service levels. Throughout the budget process we have strived to improve the utilization of the City's existing resources in order to meet the increasing demand for city services.

BUDGET FORMAT

All funds listed in the statistical summary, along with capital project funds, are accounted for on a self-supporting basis. Specifically earmarked revenues and user charges have been established to more appropriately relate revenues to expenditures. General government services are primarily funded from state and local revenue sources. Civic Center, water, festival and parking user fees are the primary revenue source for those enterprise funds, while earmarked state and local tax revenues provide for the capital funds. In addition, services provided by one fund to another fund are accounted for on a cost recovery basis so that the true cost of operations can be reflected in the operating budget. The Stormwater Maintenance Division was established for 1990/91 in the General Fund and still does not have a separate revenue source. It is the plan to establish a stormwater utility fee and remove the cost of this activity from the General Fund.

GENERAL FUND

The General Fund for 1992/93 reflects an increase of .59% over the 1991/92 budget. It is significant to note that when the increased cost for pay and fringe benefits, patch paving, and the estimated cost of inflation are taken into account, the *General Fund budget is reduced by 2.5% or over $1,000,000.*

Revenues: The major source of revenue to the General Fund is the *Ad Valorem Tax.* The 1992/93 budget reflects a tax rate of 60 cents per $100 of valuation. This is same tax rate that was set for the 1990/91 and 1991/92 budgets. We anticipate receiving $16,697,503 from Ad Valorem taxes compared to $16,282,026 for 1990/91. This is based on an assessed valuation of $2.9 billion and reflects 3% growth.

The second largest revenue source in the General Fund comes from the *Local Option Sales Tax.* This revenue decreased both in 1990/91 and 1991/92. We are estimating an increase of only 4.5% for 1992/93. This revenue is down dramatically from double-digit increases experienced prior to 1990/91. This decrease is partially due to the distribution formula. The one cent Local Option Sales Tax is distributed back to counties based on point of sale. That tax is then distributed back to the units within the county based on tax levy. The two half cent local option taxes are distributed back to counties based on population. These taxes are, like the one cent, then distributed within the county units based on tax effort. Therefore, even though the majority of sales tax is actually collected within the city limits, the City's sales tax revenue is based on the relationship of its tax levy to the County's tax levy. Any time the County tax levy goes up, the City's amount of sales tax distribution is reduced. The sales tax revenue is currently unrestricted as to use. The City dedicates 30% of one half cent tax to Wastewater Capital. The total amount of sales tax revenue that we expect to receive in 1992/93 is $6,608,576. Since Buncombe County's tax rate (including special districts and schools), has increased in previous years at a rate greater than the City of Asheville's, we continue to receive a smaller proportion of the total amount of sales tax that is allocated in Buncombe County.

The third major source of revenue in the General Fund are state collected revenues. These revenues include the *Utility Franchise Tax, Beer and Wine Tax,* and *Intangibles Tax.* The *State Utility Franchise Tax* is based on gross sales from regulated railroads and utilities within the city limits. We expect to receive $2,698,982 in 1992/93. The *Beer and Wine Tax* revenue for 1992/93 is estimated at $243,000. The *Intangibles Tax* provides $1,077,275 of revenue to the General Fund. These revenues have, for a number of years, been a steadily growing source for city's to fund general operations. They are now frozen by the General Assembly. Based on normal growth this action has had a cumulative effect of $1.7

million on the 1992/93 budget. Assuming 5% annual growth it is projected that by 1996/97 the City will lose a total of over $8 million from this action.

Another major source of revenue in the General Fund is the *Inventory Tax Exclusion Reimbursement* which is budgeted at $1,200,000. This state-shared revenue was created to take the place of the loss in Ad Valorem revenue due to the repeal of the inventory tax. It is also frozen.

The above mentioned state-shared revenues including *Inventory Tax Reimbursement*, the *Utility Franchise Tax*, *Beer and Wine Tax* and part of the *Intangible Tax* in addition to being "frozen" are all now subject to annual appropriation by the North Carolina General Assembly. In previous years these were earmarked as City revenues and were not a part of the appropriation process. The *Inventory Tax Exclusion Reimbursement* was intended to reimburse cities for a portion of the property tax that was paid on inventories when the state decided that, as part of the economic development policy, business inventory would no longer be subject to Ad Valorem taxes. The *Utilities Franchise Tax* and *Beer and Wine Tax* have long been revenues that were simply collected on behalf of the cities by the state and returned to cities. Two years ago these revenues were moved into the state budget, in order to help deal with a state deficit. During 1990/91 the Governor decided to withhold 6.2% of our last quarterly payment which, for the City of Asheville, amounted to $337,000. This withholding was to provide funds to help balance the state's budget. This withholding and the above mentioned freeze of State shared revenues will continue to have a profound effect on local governments.

The *Powell Bill* allocation is budgeted at $1,692,345. During 1990/91 we experienced a 16.65% increase resulting mainly from the increase in state sales tax on gasoline. We are only anticipating a 1.8% increase in 1992/93 due to reduced consumption. Unfortunately, we have continued to reduce our contribution of Powell Bill funds to the Street and Sidewalk Fund. Our Capital Improvements Plan and Five-Year Budget originally called for an increase from 60% to 80% of Powell Bill funds being transferred from the General Fund and used for street and sidewalk improvements. Based on the severe problems that we are facing in the General Fund, the allocation was held at the current 20% level. This reduction reflects a savings to the General Fund of $1,015,407. Even though this is a savings to the General Fund, it does have a detrimental effect on the Street and Sidewalk Fund.

The reimbursement from Buncombe County for law enforcement is estimated to be $1,406,877 in 1992/93. This reflects the County's decision to go back to the original formula in the Water Agreement. This item is subject to re-negotiations for the 1993/94 budget year.

ABC Revenues are budgeted at $525,000 or slightly less than we expect to receive in 1991/92

Mass Transit Funding is expected to be $702,641. This is an increase over the expected amount in 1991/92. The City subsidy to the transit system will be $813,459 or 54% of the net operating cost of the system.

In the 1991/92 budget, $982,986 of fund balance was originally appropriated in order to provide sufficient revenue to meet anticipated expenditures. We anticipate that by the end of this year, due to significant reductions in personnel through a hiring freeze, that only $210,004 will be needed to meet operating costs. It is estimated that available fund balance for appropriation, after we have met the requirements of our Fiscal Policy, will be $1,583,772. In order to balance the General Fund Budget, we have appropriated $937,310, leaving a balance of $646,462. We generally do not like to budget in any one year more than 50% of the available fund balance. Because of the very difficult budget year that we are facing 59% of available fund balance is appropriated.

In summary, General Fund revenues have been severely impacted by the freeze in many state shared revenues, the slowed growth of sales tax revenue loss of $180,000 Arts rent when the Asheville Arts Museum moves to Pack Plaza and the approximately $1,000,000 impact of several annexations still being in court.

Appropriations: General Fund appropriations for 1991/92 are $41,617,650 which represents an increase of 0.59%. There are no new programs or personnel in the General Fund budget. In order to balance the budget in the face of the revenue shortfalls we were experiencing, the following cuts were made in appropriations:

• Eliminated pay plan adjustments	$34,572
• Eliminated across the board pay increase	$532,091
• Did not restore most 1990/91 or 1991/92 personnel cuts	$700,000
• Cut contribution to group health reserve	$275,000
• Reduced Performance Pay	$193,100
• Reduced line items	$1,021,000
• Reduced provision for snow removal	$25,000
• Reduce leaf/brush pickup	$26,374
• Reduced training	$17,627
• Continued dependence on Powell Bill	$1,015,407
• Eliminated Service Enhancements	$1,266,757

While we have not eliminated any essential city services, the public will see a reduced levels of services in such as brush pickup, leaf removal, pot hole repairs and other services.

PARKING SERVICE FUND

Parking Services is an enterprise fund with dedicated revenues. A General Fund subsidy is necessary to fund parking services.

Revenues: Parking revenues are estimated at $706,662, which is an increase of $224,263 from 1991/92. The Civic Center garage generates approximately $183,130 per year in revenues, the Wall Street garage $113,000 and Rankin Avenue garage $104,932 in revenues. Garage revenues are up but most of the revenue increase is from new meters with higher hourly rates and the use of a collection service to collect fines.

Appropriations: The refinancing of the parking garages debt resulted in a reduction in debt service from $612,347 budgeted in 1991/92 to $326,112 estimated for 1992/93. In addition the operating costs for parking services has been reduced by $46,073 for 1992/93. The combination of increased revenues and decreased cost have created a reduction in the General Fund subsidy by a total of $556,571.

CIVIC CENTER FUND

The City's Fiscal Policy states that the General Fund subsidy to the Civic Center shall not exceed 10% of operating cost in any fiscal year. It is anticipated that the General Fund subsidy for the 1992/93 budget year will be 7.7% of operating costs which is well within our stated policy.

Revenues: The major revenue for the Civic Center comes from charges for services which amount to $1,405,469. A reduction in the Art Subsidy from Buncombe County from $217,034 to $38,896 is reflected. This subsidy was a provision of the Water Agreement to reimburse the City for space occupied by the Art and Mineral Museum. Since the Art Museum and Colburn Mineral Museum are moving to Pack Place

Education, Arts and Science Center during 1991/92, we will be receiving rent only for Symphony space. Rental rates are increased as follows:

	Daily Rates	
	Current	Proposed
Arena	$1,400	$1,500
Auditorium	$700	$800
Exhibition Hall	$600	$700
Banquet Hall	$300	$350

Appropriations: The Civic Center fund estimated expenditures of $1,563,671 is one half (.5%) above the 1991/92 budget. To accomplish this we can expect lower staffing levels and lower building services.

FESTIVALS FUND

All of the direct costs associated with festivals are included in a separate enterprise fund. The $1,050,400 budget is fully supported by revenues generated from the two major festivals: "Bele Chere" and "Light Up Your Holidays."

Revenues: Revenues from "Bele Chere" basically come from three sources: ticket (token) sales, $715,000, sponsors, $110,000 and rents and sales of "Bele Chere" items, $35,000. "Light Up Your Holidays" generates revenues of approximately $176,000 with $30,000 of that amount coming from sponsors and $146,000 from event revenues.

Appropriations: Approximately one-half of the total appropriation goes to pay vendors through the token system and for entertainment. Another major expenditure is in the area of "purchases for resale" of Bele Chere items and refreshments. Profits are used for Downtown projects such as production of a map and calendar, a banner and bracket system and a new stage.

WATER FUND

In accordance with the Water Agreement, the Asheville-Buncombe Water Authority's annual budget must be approved by both the City of Asheville and Buncombe County. The budget presented to you from the Water Authority is $16,200,000. This amount is a 5.2% increase over 1991/92. A large part of the increase is a result of debt service on the general obligation bonds issued this year.

Revenues: The major source of revenues is utility charges. These charges are budgeted for 1992/93 at $15,165,000, which reflects a 4% rate increase to be effective July 1, 1992. This increase is in accordance with long-range funding for the Water Master Plan improvements which calls for annual 4% rate adjustments. The other significant revenue source is $420,000 for tap and connections fees.

Appropriations: The appropriations in the Water Fund are primarily in the area of maintenance, $4,804,051, water production, $2,277,020, customer services, $1,545,157 and debt service, $2,627,500. Other expenses include equipment purchases, in lieu of tax payments, cost allocation plan reimbursements, engineering services and transfers to capital funds.

CAPITAL FUNDS

The City of Asheville Capital Improvements Program (CIP) was updated for 1992/93 so that it continues to be a full six-year planning document. Revenues are sufficient to support planned projects throughout the life of the six years. The 1992/93 budget reflects a continuation of funding for the fifth year of the Capital Improvements Program.

Revenues: A total of 13.5 cents of the city's tax rate is earmarked to fund capital improvements. This amount is divided between two main funds, the General Capital Reserves Fund and the Street and Sidewalk Improvement Fund.

General Capital Reserves Fund: 8.5 cents of the 60 cents tax rate is used for general capital outlay. In addition to that amount, 60% of one of the half-cent sales taxes is also allocated to this fund.

Street and Sidewalk Improvement Fund: 5.0 cents of the City's tax rate is reserved to support the Street and Sidewalk Improvement Plan. In addition, a portion of the Powell Bill allocation is transferred annually to this fund. The current year allocation is at 20%. Due to continued revenue shortfalls in the General Fund, this amount remains at 20% for 1992/93. It is anticipated that in future years this percentage will be phased into the Street and Sidewalks Fund at a 20% annual growth factor which will reach 100% in 1996/97. The savings resulting from refinancing the Parking Garage Debt will be transferred to this fund. These revenues, along with interest earned and bond proceeds, make up sufficient revenues to fund the 1992/93 projects planned in this program. However, because of the delay in transfer in Powell Bill funds, future projects will be postponed.

Wastewater Extension Fund: On November 21, 1989, a Sewer Consolidation Agreement was executed between all of the owners of wastewater collection systems in Buncombe County. That agreement calls for the transfer of all sewer lines to MSD on July 1, 1990. After consolidation, the City maintains a Wastewater Extension Fund which pays our portion of line extensions for annexation and/or for economic development purposes. For 1992/93 a contribution of $442,388 is included in the General Fund to be transferred to the Sewer Capital Fund. This amount represents 30% of one half cent sales tax.

Community Development Fund: This fund is primarily supported with an annual grant allocation from the federal government. The projected amount of entitlement dollars and program income for 1992/93 is approximately $1,365,000. The Community Development budget process runs concurrently with the City's budget process.

Appropriations:

General Capital Fund: The General Capital Fund appropriations are made from requests which are shown in the CIP. Most of the appropriations in this fund are for departmental equipment replacement, general maintenance and debt service on major building construction. The debt service for the City Hall renovation project and replacement of the Public Works Facility is budgeted in this fund. No major new projects are scheduled for 1992/93, however, planning for the Municipal Building replacement/renovation will begin.

Street and Sidewalks Program: Since December 1987, $19,500,000 of General Obligation Bond's have been issued, of which $16,500,000 are to be used exclusively for street, sidewalk and stormwater rehabilitation. The remaining $3,000,000 make up the City's share of the cost of construction of the Pack Place Education, Arts and Science Center. To date, virtually all sidewalk replacement is complete and we are now in the process of repaving and reconstructing those streets identified for such work by the Infrastructure Management Systems (IMS) study. The last three major contracts will begin construction in the early summer of 1992. The Patton Avenue Project is on schedule. In addition to street and sidewalk work, the

city's share (20%) of the bridge replacement program and major equipment for our ongoing street maintenance program are also appropriated in this fund.

Wastewater Extension Plan: The consolidation agreement with MSD calls for the City of Asheville and MSD to split the cost 65%/35% of extensions for annexations that were planned at the time the agreement was signed. The Wastewater Fund will have ample funds to pay for all extensions in areas where annexation ordinances have been adopted. Future annexation extensions will also be funded because of the continued dedication of 30% of the one-half cent sales tax.

Community Development: The Community Development Fund reflects the City's continued commitment to these programs. This year we recommend an appropriation of $405,500 for the Hill/Cherry Streets "Head of Montford" Program. In addition, $265,650 is appropriated for the continued support of the city-wide housing rehabilitation program, $125,000 is earmarked for Neighborhood Housing Services and $114,000 for the South Pack Square Redevelopment project. The sum of $193,400 is budgeted to pay for the administrative cost of the Minority Business Plan Community Development Programs during 1992/93.

PERSONNEL

The City of Asheville is a service organization. We exist only to provide services to the public. Those services are provided through our employees. Our employees are the most valuable asset to our organization and to the community. It should not come as a surprise that more than one-half (55%) of the City's operating budget is for personnel-related expenses. It is incumbent upon us to manage this resource in such a manner as to provide fair and equitable pay policies, benefits that are commensurate with those given in other businesses in our area and a working environment that encourages pride in self, pride in work and pride in community.

Positions: In the 1990/91 and 1991/92 budgets there were approximately $700,000 of personnel items cut. This was accomplished through delaying the filling of positions, eliminating positions, reducing overtime and reducing other various personnel costs. The 1992/93 budget does not restore any of these cuts. The effect of the hiring freeze on the General Fund is as follows:

Budgeted Positions	710	
Total Frozen	41	
Total Frozen - Filled with part-time	10	
Net Full-time Frozen Positions	31	$514,627

As mentioned earlier there have been impacts on our response to service requests and in the quality in some services that we provide. We are dedicated to becoming more efficient in our organization and to provide essential services at the highest level available, given the resources that are available.

Compensation: The adoption of a new pay plan in 1989/90 called for the philosophy that a total compensation package should be developed that recognizes the market value of work performed by City employees, long time loyal service to the City and quality of work. Our compensation package that met these goals contained three elements.

1. Pay Plan Adjustment. In previous years, a salary survey was conducted of other public and private employers, so that our salary ranges could remain competitive. Based on that survey, ranges were adjusted, funds were appropriated to place people on the appropriate range and across the board increases were granted. The current survey recognizes that the City's pay plan is approximately 10% below market. Due to budget restraints, this portion of our compensation package is not funded.

2. Merit Pay Plan. A reduced Merit Pay Plan is included in the 1992/93 budget with a total estimated cost of $336.100. This is the fifth year the merit pay plan system has been in place and funding is availabel for an average 3% increase.

   All employees will be evaluated on their anniversary date and will be eligible for these levels of merit pay. Employees who are not performing at their job level will receive no pay increase but will be reevaluated in six months to determine if their performance has improved. A merit pay plan structured in this manner is essential to provide incentives to employees and to provide a method to fully integrate our MBO system down to the individual employee.

3. Longevity - A longevity pay plan was adopted in the 1989/90 budget. This plan was also recommended by the consultants who developed our classification pay plan. This concept recognizes the value of those city employees who have exhibited loyalty and dedication to the City for a long period of time. A very modest continuation of the longevity pay plan is proposed for 1992/93 at a cost of $107,300. Longevity is paid to all eligible employees who are employed as of December 1, 1992. The payment is based on years-of-service and is given in a lump sum amount in early December. (This amount is omitted from an employee's base pay.) The proposed schedule, identical to the current year, is:

5 - 10 years	$100
10-15 years	$200
15-20 years	$300
20 or more years	$400

All of the above three elements are essential to a fair and equitable compensation package. We feel, however, that given available funds, the most important element is to continue the merit plan and to provide for some recognition of service.

Our survey indicates that since there has been no pay plan adjustment or across the board increases our package is getting further behind at some point the cost to "catch up" will be substantial.

Group Insurance: We have been advised by our group health and dental insurance administrators that we can expect group health costs to remain constant for 1992/93. This is occurring even through other employers are seeing substantial increases. We believe this "savings" is in part due to the City's Wellness Program. During the 1990/91 we implemented a comprehensive Wellness Program that included blood pressure checks, cholesterol screening and comprehensive health education. On January 1, 1990, a "Cafeteria Plan" of benefits was implemented for all full-time employees. This plan gives an "allowance" to all employees with which they can purchase the benefit package that is most suitable to them. With this allowance, employees can choose between several health insurance plans, dental plans and purchase additional life insurance. This program is an excellent benefit package to the employees that had no additional cost to the City since any cost over and above the employee's allowance will be paid by the individual employee.

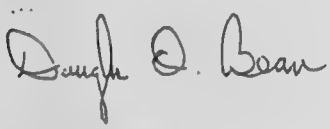
Quality Management (TQM): The City staff is dedicated to providing Quality Services in an efficient manner. As a way to enhance our efforts we are developing a Total Quality Management Program (TQM) which will be similar to successfully developed programs in the private and public sectors. The cornerstone of this program will be the empowerment on how to improve operations. Successful quality programs result in higher employees satisfaction, improved quality of employee generated efficiency measures TQM is a long term process that demands a high level of commitment but the results can be dramatic.

SUMMARY

The City of Asheville's budget for 1992/93 provides a plan for the allocation of resources to continue all essential city services. I do not believe, however, that our work is done on this year's budget. We have appropriated a very high percentage of available fund balance. There are several service restorations and betterment's to be considered by City Council. In order to balance this years budget, significant cuts were made by staff in the areas of personnel, programs and capital. Most of the increases in expenditures that we are experiencing are items that are basically out of our control and our revenue losses are unavoidable. This operating budget does not contain a number of service enhancements that I realize that the City Council feels are crucial to meet some of your stated objectives. It was our feeling that this was the year to ensure that we have a fiscally responsible budget, even if it meant not meeting some of our stated goals and objectives. The budget presented to you is a fiscally sound budget. It was only through good financial planning that we were able to anticipate deficits before they occurred and to react to economic conditions. By reducing personnel and operating costs there will be fund balance available this year for a very difficult 1992/93 budget. It is very uncertain how much fund balance will be available for 1993/94.

The preparation of a budget involves a great many people. Department and division heads should be congratulated on the responsible budgets they prepared and the dedication they displayed in making significant cuts in their operations. In addition to their work on this year's budget, much of the success in holding expenditures to a minimum is due to the work of the department and division heads in their day-to-day operations. Their participation in cost saving programs and their willingness to try new and innovative ideas is an indication of their high level of professionalism. I would like to thank not only these department heads, but also the administrative staff who worked very hard assembling the budget. The Audit & Budget Department, Vicki Heidinger, Debbie Messer, and especially the director, Bob Wurst, should be commended for their hard work and dedication. I would also like to give a special thanks to the entire City Council who gave many hours of their time reviewing this budget. Your input during the preparation of this budget was essential to continuing the philosophy of providing the highest level of services at the lowest possible cost.

Sincerely,



Douglas O. Bean
City Manager

DOB/dkm

Councilwoman Field moved to schedule a public hearing on the 1992-93 annual operating budget for June 2, 1992, at 4:00 p.m. in the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Worley and carried unanimously.

B. RESOLUTION NO. 92-63 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1992-93

Mr. Marvin Vierra, Community Development Director, said that the City anticipates receiving $1,342,000 through the CDBG Entitlement Program for 1992-93. The total budget including $38,550 of program income and prior year surplus will be $1,364,500. The City has received requests for CDBG funds totalling $2,071,030. The requests have been reviewed by the Housing and Community Development Committee. The Committee has recommended the funding contained in the Proposed Statement of Objectives that was published in the newspaper on May 1, 1992, for public comment. A public hearing was conducted at the Montford Community Center on May 4, 1992, and another public hearing was conducted by the City Council on May 5, 1992. Due to comments received, a new project to support Habitat for Humanity is being recommended with funding to come from an increase in projected program income. He said the following is the proposed budget in the Statement of Objectives:

Hill/Cherry (Head of Montford) area	$ 405,500
City Wide Housing Rehabilitation	$ 265,650
Neighborhood Housing Services	$ 125,000
Mountain Housing Opportunities - HOPE 3	$ 15,000
Mountain Housing Opportunities - New Rental Housing	$ 100,000
Hospitality House Transitional Shelter	$ 27,000
Habitat for Humanity	$ 15,000
YMICDC-South Pack Square Redevelopment	$ 114,500
Hillcrest Enrichment Program	$ 30,000
City Contracting Disparity Study	$ 45,000
A-B Community Relations Council	$ 14,500
CD Planning	$ 30,000
Minority Business Program	$ 44,000
CD Administration	$ 149,400
Total	$1,368,550

Vice-Mayor Ellison stated that he had received a letter supporting the South Pack Square Redevelopment Project through the YMI Cultural Center. He stated that no one is interested in changing the makeup of the Market Street/Eagle Street area. He stressed that the City is interested only

in preserving, as much as it can, the heritage in that area. He said they are trying to improve the area and make it a part of the entire City.

Mr. Vierra said that he received a letter from Pisgah Legal Services and their calculations of the amount going to benefit low and moderate income people is different than HUD's calculations. He said HUD calculates $997,000 going to benefit low and moderate income people.

Ms. Dee Williams, representing the Asheville Minority Business Development Center, stated that her client, Mr. Elijah Jones (d/b/a Jolly Cab Company and Jones Convenience Store) owns over two acres of land in the South Pack Square redevelopment area. She said that she has submitted correspondence to the Council opposing the South Pack Square Redevelopment Plan. She objected to the redevelopment plan that the YMI has submitted because she feels the YMI wants to be both negotiator and buyer of the property. She stated the YMI's role is one of facilitating business development among the minority population of entrepreneurs in that area and feels that the YMI is overstepping its bounds. She feels that this plan does nothing to preserve the capital formation opportunities for minorities in the area. She was concerned that the redevelopment plan targeted most of Mr. Jones' property. She said Mr. Jones has asked for assistance of CDBG funds in the past and has been turned down because he was not income eligible. She asked what options Mr. Jones has if the amount offered to him is not enough. She stated the area will not tolerate eminent domain.

Vice-Mayor Ellison again stated that the City is only interested in improving that area and has no plans to exercise any eminent domain powers. He stressed that they make Mr. Jones an offer and he refuses, that he has that right to refuse and no one will force him to do anything he does not want to do.

Ms. Williams requested assistance from City staff and others who know of resources available to furnish that information to Mr. Jones. She stated that Mr. Jones should have been given technical assistance via the YMI to access CDBG funding.

Councilman Peterson stated that the Housing and Community Development Committee had no intentions on taking anyone's property. He stated that they are only trying to make the area better and keep it in the hands of the black business owners.

Upon inquiry of Vice-Mayor Ellison, Ms. Williams stated that Mr. Jones had not made any applications for CDBG funds or any other loans this year.

Mr. Ralph Bishop spoke about being opposed to Pack Plaza from the very beginning of the project.

Mayor Michalove clarified that no group, i.e., the YMI or the Housing Authority, has the authority to adopt a redevelopment plan. He said it is the City Council's decision on whether or not to adopt it. Then the City Council designates those agencies to carry out its plan.

Mr. Elijah Jones stated that 95% of the targeted property is owned by him. He said he has spent many years in acquiring the block for the purpose of improving it. He feels that he should be given a chance to work with someone about development in the community.

Vice-Mayor Ellison stated that there has been a lack of direct communication between the South Pack Square Redevelopment Committee and Mr. Jones. He urged Mr. Jones to attend the next meeting which is May 20, 1992, at 8:00 a.m. at the YMI Cultural Center. He felt that if Mr. Jones could attend the meetings, he could be kept better informed and the lines of communication would stay open.

A gentlemen asked Mrs. Henry-Coleman what the YMI can do to help minorities prosper and get ahead in the area if they don't own businesses down there.

Mrs. Wanda Henry-Coleman, Executive Director of the YMI Cultural Center, stated that the YMI has been working in that area for the past 10 years and has tried to develop a plan for the area itself before someone else outside the area did it for them. She stated that Mr. Jones had been approached and asked if he was interested in the loan pool program at which time he declined. She vehemently disagreed that the YMI is fronting for anybody at Pack Place and stressed that the YMI is working for and with the community.

A gentlemen stated that he did not feel that anyone can become involved in the community unless they are part of the community.

Vice-Mayor Ellison moved to excuse Councilman Swicegood at 5:07 p.m. This motion was seconded by Councilman Peterson and carried unanimously. Mayor Michalove explained that Councilman Swicegood needed to be excused to get to another event that evening and did not leave due to a lack of interest. He stated that the remaining Council members would brief him on the remaining issues.

Mr. Martinez felt the poor community was being bulldozed. He told a story about a program he submitted to the YMI to have evaluated. The YMI rejected his program and

did not even offer to help him write a program that might be approved.

Ms. Eleanor Lloyd asked the City Council for a commitment for the program for business start-up incubator. Mayor Michalove suggested that Mrs. Lloyd attend the public hearing on June 2 when the Council will be addressing items related to the general fund.

Upon inquiry of Ms. Helen Kennedy, Vice-Mayor Ellison explained the meaning of eminent domain.

Councilwoman Field stated that the City would like to make the area an historic district.

Mr. Clarence Benton spoke about the need of preservation in the area.

Mr. Matthew Bacoate, member of the YMI Board, stated that he was in favor of the area remaining ethnic minority controlled as much as possible.

Mr. Lewis Isaac, member of the YMI Board, stated that they want to develop the property with the people.

Mr. Larry Linney, member of the YMI Board, asked the City Council to vote in favor of the projects the Housing and Community Development Committee recommended funding with CDBG funds.

A gentlemen spoke in favor of the projects the Council is considering funding with CDBG funds.

Upon inquiry of Councilman Peterson, Mrs. Henry-Coleman said that all property owners are on a mailing list and they all receive copies of meeting notices.

Mayor Michalove said that the City Council is not adopting a redevelopment plan at this meeting. He said the plan Mrs. Williams has been referring to is only a preliminary draft and that other groups will have to review the plan prior to City Council's consideration of it.

The President of the Hillcrest Residents Association asked the City Council not to put up more public housing until the public housing that Asheville has is cleaned up.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Councilman Moore moved for the adoption of Resolution No. 92-62. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 178

C. RESOLUTION NO. 92-63 - RESOLUTION AUTHORIZING THE INSTALLMENT PURCHASE OF A FIRE TRUCK

City Manager Bean stated that on April 14, 1992, City Council approved the purchase of one 1992 Grumman Emergency Products Model Panther I fire truck. The acquisition of this fire truck via installment purchase has been contemplated in the City's Capital Improvements Program. He said the estimated cost of the truck is $445,000. He said the term is for 7 years with semi-annual payments of approximately $41,054 to First Union National Bank.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-63. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 183

V. CONSENT:

A. RESOLUTION NO. 92-64 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENTS OF US 25 FROM YORKSHIRE STREET NEAR I-40 TO SOUTH OF SR 3081 (ROCKHILL ROAD)

Summary: The North Carolina Department of Transportation will include in its construction contract provisions to relocate and adjust certain city-owned waterlines located along the project. The estimated cost of the project is $429,000.

RESOLUTION BOOK NO. 19 AT PAGE 184

B. RESOLUTION NO. 92-65 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 16, 1992, AT 4:00 P.M. IN THE CIVIC CENTER BANQUET ROOM TO LEVY SPECIAL ASSESSMENTS FOR THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END

Summary: A petition has been received from at least a majority of all property owners on Woodland Road for the City to improve Woodland Road. The petitioning property owners represent a majority of the property owners and represent at least a majority of all the lineal feet of the

frontage of the street. The petitioning property owners want to accomplish these improvements by using the special assessment process. The total project cost will be $13,896.13.

RESOLUTION BOOK NO. 19 AT PAGE 185

C. **RESOLUTION NO. 92-66 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND VOLUNTEER FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICE TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 2310 HENDERSONVILLE HIGHWAY (ASHEVILLE OIL COMPANY, INC., PROPERTY)**

Summary: The City of Asheville Fire Department has determined that the most efficient fire protection service to the area proposed for annexation can be provided by the Skyland Volunteer Fire Department. There will be an annual payment to the Skyland Volunteer Fire Department of $315.00.

RESOLUTION BOOK NO. 19 AT PAGE 187

D. **RESOLUTION NO. 92-67 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO CONVEY REAL PROPERTY IN THE LEICESTER TOWNSHIP AREA TO MARK CARLSON**

Summary: The City owns property in the Leicester Township consisting of a .93 acre tract previously used as the Mt. Carmel water pumping station. Mark Carlson has made an offer for the purchase of said property in the sum of $6,074 and has deposited a bid deposit equal to 5% of the bid amount. Notice of intent of the Council to convey said property to Mark Carlson has been published and since there has been no upset bid, the Mayor is authorized to execute a deed of conveyance.

RESOLUTION BOOK NO. 19 AT PAGE 188

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior Planner, introduced Mr. Tony Nicholson, a new employee in the Planning Department, who will be handling future group developments.

Councilman Worley moved to excuse Councilwoman Field at 5:50 p.m. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on May 6, 1992:

PACK PLACE (PHASES B & C)

Mr. Green said that in 1989 the Asheville Planning and Zoning Commission and the City Council reviewed the plans for Phase A of Pack Place. Phase A consisted of plans for the building and the utilities which would serve the facility. These plans were approved with contingencies, one of which was that plans for Phase B and C be submitted to the Planning Department and approved by the Planning and Zoning Commission prior to opening of the facility. Phases B and C consist of two interior courtyards, the entry court, and the service alley. As part of the construction of the entry court, street trees will be planted, a fire hydrant moved, and the brick replaced in the sidewalk.

During the review of the plans for the entry court by City staff, concerns were identified regarding the proposed design's deviation from the original design of the area. Staff has met with the architect and manager of Pack Place to discuss these concerns and an agreement has been reached whereby the entry court will be redesigned to incorporate the concerns of staff.

The possible queuing of buses as they wait to load and unload children is of concern to City staff. This is an issue which must be studied further, particularly after the opening of Pack Place, to determine the magnitude of the problem, if there is one, and to determine possible solutions.

After reviewing the plans and hearing the staff report, the Planning and Zoning Commission voted to approve Phases B and C of Pack Place with two conditions:

1. The design for the entry court be approved by the Planning Director for conformance with the Streetscape Plan; and

2. The circulation patterns be monitored by both the City and Pack Place for possible problems and steps taken to address any problems that may occur. Staff will provide the Planning and Zoning Commission with a report in January, 1993 which addresses any potential circulation problems in that area.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 92-68 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 16, 1992, AT 4:00 P.M. IN THE CIVIC CENTER BANQUET ROOM TO LEVY SPECIAL ASSESSMENTS FOR THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE PRESENT HYDRANT LOCATION ON GREENLEAF CIRCLE AND ENDING AT THE ENTRANCE TO BEAVER LAKE HEIGHTS

City Manager Bean said a petition has been received from at least a majority of all property owners on Greenleaf Circle to construct, reconstruct, extend and otherwise build a 6-inch diameter water line 950 feet in length beginning at the present hydrant location on Greenleaf Circle and ending at the entrance to Beaver Lake Heights. The petitioning property owners want to accomplish these improvements by using the special assessment process.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Ellison moved to schedule a public hearing on this matter for June 16, 1992, at 4:00 p.m. in the Asheville Civic Center Banquet Room. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 190

C. APPOINTMENT OF COUNCILMAN WORLEY TO RIVERLINK

Mayor Michalove appointed Councilman Charles Worley as a member of the RiverLink Committee to serve a term to expire December 7, 1993, or until his term as a City Council member expires.

D. HYDER WASTE PROPOSAL

Mr. Mike Griffin asked the City Council to consider Hyder Waste's proposal for sanitation services in the City of Asheville.

Mayor Michalove said that the City Council has asked the City Manager to obtain some information for them on this matter.

E. RALPH BISHOP

Mr. Ralph Bishop spoke against the business being operated by J.B. Plemmons at 704 Riverside Drive.

F. ANNOUNCEMENT OF NO COUNCIL MEETING NEXT WEEK

Mayor Michalove announced that the City Council would not be meeting next week, May 26, 1992, due to the Memorial Day holiday.

G. CLAIMS

City Manager Bean stated that the following claims were received by the City of Asheville during the week of May 4-8, 1992: Phillip McLaughlin (Streets); Vivian Tesner (Parking Services); Margaret Barnes (Police); Paul Rucker (Sanitation); Mike Evans (Water); and The Superette (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:05 p.m.

William S. Holcomb
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - June 2, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the May 19, 1992, City Council minutes.

I. PROCLAMATIONS:

A. PRESENTATION ON THE EDUCATION PARTNERSHIP PROGRAM

Mrs. Robin Westbrook, Public Information Officer, said that the City of Asheville has been participating with Asheville Middle School in an Education Partnership Program since February of 1992. Twenty-one City employees signed up to participate in tutoring, classroom presentations and field trips. Currently six of these employees in five different departments are tutoring students at least once a week. She recognized the Asheville Middle School teachers, students and City of Asheville tutors for their participation on this Program.

Mayor Michalove thanked the participants for their participation in this very worthwhile program.

B. PROCLAMATION PROCLAIMING JUNE 4, 1992, AS "PARKS AND RECREATION VOLUNTEER RECOGNITION DAY"

Mayor Michalove proclaimed June 4, 1992, as "Parks and Recreation Volunteer Recognition Day" and presented the proclamation to Ray Kisiah, Director of Parks, Recreation and Public Facilities.

Mr. Kisiah recognized Mr. Joe Noertker of the East Asheville Community Center as the "Outstanding Volunteer" for his consistent and dedicated efforts toward the development of a City-wide chess program for youth.

Mr. Kisiah invited the Council to the annual volunteer recognition dinner at 6:30 p.m. on June 4, 1992, at Malvern Hills Pool.

II. OLD BUSINESS:

A. **RESOLUTION AMENDING THE REPORT OF PLANS FOR EXTENSION OF CITY SERVICES INTO THE BEAVERDAM RUN ANNEXATION AREA**

City Manager Bean asked that the City Council take no action on this item.

B. **THIRD READING OF ORDINANCE NO. 1970, AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE BEAVERDAM RUN AREA UNDER THE AUTHORITY GRANTED BY PART 3, ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA.**

City Manager Bean said that the City has received the following letter dated June 1, 1992, signed by Kempton H. Roll, President of the Beaverdam Run Condominium Association. The accompanying executed resolution is attached hereto as Exhibit "A".

"Pursuant to your request, please find enclosed the executed resolution adopted by Beaverdam Run Condominium Association. In consideration for adoption of this resolution, it is the understanding of the Association that the City of Asheville will postpone the current annexation proceeding until 1993 when a new proceeding will be commended incorporating the entire boundary of the Association no sooner than June 30, 1994. Following annexation, the Association shall be entitled to continue to maintain private security, road maintenance, utility systems, and street lighting within the boundaries of the condominium development. To insure there is no misunderstanding please confirm this by a written response including a copy of any resolution adopted by City Council."

Councilwoman Field moved that the third reading of Ordinance No. 1970 providing for the annexation of the Beaverdam Run Area be removed from the City Council agenda and that the process for the annexation of that area, along with the entire Beaverdam Run Condominium development, be re-initiated in the Spring of 1993 so as to provide for annexation of the area effective June 30, 1994. This motion was seconded by Councilman Moore and carried unanimously.

III. NEW BUSINESS:

A. QUARTERLY DOWNTOWN REPORT

This item will be considered later in the meeting.

B. ORDINANCE NO. 1972 - BUDGET AMENDMENT FOR FIRE APPARATUS EXTENDED-CONTROL CONSOLES FOR COMMUNICATIONS SYSTEM

City Manager Bean said that this budget amendment is to appropriate $15,000 received as interest on $1,600,000 received from Wachovia Bank for lease/purchase of the radio communications system for 15 extended-control console radio units for fire apparatus.

Mayor Michalove stated that members of Council have been previously furnished with copies of the ordinance and it would not be read in its entirety.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1972. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1972 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 74

IV. CONSENT:

A. RESOLUTION NO. 92-69 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 16, 1992, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET.

RESOLUTION BOOK NO. 19 - PAGE 192

B. RESOLUTION NO. 92-70 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 16, 1992, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET.

RESOLUTION BOOK NO. 19 - PAGE 194

Vice-Mayor Ellison moved for the adoption of the Consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

ANNOUNCEMENT - NORTH CAROLINA LESBIAN AND GAY PRIDE MARCH

Mayor Michalove announced that on the weekend of June 13, 1992, an organization by the name of North Carolina Lesbian and Gay Pride will be meeting in Asheville. That organization has obtained appropriate permits to have their public meetings and he asked that the community of Asheville and others respect their right to assemble and that we not discriminate against any group in our community.

He said that he had been requested by that group to proclaim that day as a special day for the group. He said that only the Mayor issues proclamations, not the City Council. He said he had thought long and hard about his position in this matter and he feels that the Mayor needs to reflect the feeling of not only himself, but of the community. He said that because he has not issued proclamations that deal in social issues, he will not issue a proclamation dealing with this matter.

He said that there has been some discussion about whether or not the Council will adopt a change in the City's policy dealing with discrimination. He said that is not a matter on the agenda nor is it a matter in the Council's agenda in the immediate future. He said when it does become a matter for the Council to consider, the Council will make it an agenda item and the public will be notified.

He stressed that he would be glad to talk to anyone after the meeting who would like to discuss his announcement or anyone can call him to talk about it.

V. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO THE 1992-93 ANNUAL OPERATING BUDGET

Mayor Michalove opened the public hearing at 4:35 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

City Manager Bean stated that the proposed budget in the amount of $59,220,181 for 1992-93, reflects a .59% increase adjusted for inflation and salary increases. He said the budget is actually less than last year and it is balanced with a 60 cent tax rate, which is no increase over the existing rate. He said it is a fiscally sound budget at this time.

Ms. Debra Price asked the City Council to investigate the City's purchasing policy. She proposed the City initiate an effort to consolidate its central purchasing department with Buncombe County as well as both City and County school systems. She also proposed that the central purchasing facility give local businesses equal opportunity to bid on products and services.

Mr. Scott Hughes, speaking on behalf of the Budget Review Committee of the Council of Independent Business Owners, stated that he is pleased that the budget does not result in an increased tax burden to the property owners of the City.

Mr. Hughes suggested that management provide Council with the cost of some curtailed services, i.e., spring and fall leaf pickup, snow removal, training programs, etc. for further analysis. He felt that some of those costs might be covered by the proposed $400,000 increase in the contingency account in the non-departmental section of the general fund.

He was pleased that the City will be exploring new methods of service delivery, i.e. privatization. He felt that if the private sector can provide services of similar quality to the public at a reduced cost then why should the taxpayer pay more than is necessary.

He supports contracting out sanitation services of the City which would not only result in an immediate annual savings of approximately $243,000 but also provide an immediate opportunity for curbside recycling. He said CIBO urges the Council to move quickly toward obtaining proposals for this project and, if necessary, pass an interim budget in order to obtain the benefits of this cost saving proposal in the current fiscal year.

He said that if the contracting out of sanitation services becomes a reality, he proposes Council consider converting the garage facilities currently under construction on South Charlotte Street for use as either Police or Fire Department facilities.

He encourages the City to take the lead in proposing a joint centralized purchasing function with Buncombe County.

He also has concerns relative to the City Print Shop in competition with local printers concerning the printing needs of various not for profit organizations.

Mr. Dick Martin, owner of Quick Copy Printing, stated that he has lost substantial money to the City's Print Shop and feels that the City should only do work associated with a copying machine and let the rest of the work go out to the private sector.

Ms. Gail Gomez, Kituwah, gave statistics relative to the American Indian National Arts Exposition of last year and the proposed festival for 1992.

Mr. A. B. Wexler, urged the City Council to consider the proposal by CIBO for privatization of City services and asked the Council to look at the Print Shop issue.

Mr. Reece Lasher, 1992 Bele Chere Chairman, felt that reimbursement should be the same for all festivals. He felt that Bele Chere should not be the only festival considered to reimburse the City for providing police and sanitation services.

Mr. Dave Johnson, President of Curbside Management, said that a restructuring of garbage services should be considered. He said it was vital that the household take an active role in waste and that the City might consider an economic incentive based program to accommodate those who do not involve themselves in reduce, reuse and recycling activities.

Mr. Brownie Hyder, Hyder Waste Containers Inc, asked the City Council to consider contracting with his company for garbage collection. He said they will be constructing a new recycling facility this year and that they would be willing to hire the City employees currently working in sanitation.

Dr. Andrea Gravatt, representing the Child Abuse Center, asked the City Council to support the child abuse prevention programs.

Mr. David McFee, representing the Asheville Firefighters, spoke about the unfairness of City of Asheville employees being paid 10% less other comparable cities. He stated that last year the highest merit increase was 4.5% and this year's is only 3%. He asked why the City Council was allowing City employees to go backwards in their pay.

Ms. Karen Korp, member of the "Light Up Your Holidays" Board of Directors , stated that the City now provides organization and services and the public provides volunteer

manpower and fund raising. She feels that if the City were to withdraw its support by placing the burden of providing services on volunteers, the successes of the past may swiftly become distant memories and the entire community - businesses, residents, tourist and tax revenue - may very well be the losers.

Mr. Barry Carlisle, Waste Management of Asheville, urged the City Council to look at privatization. He stated that if the City contracted with this company, they would be prepared to respond immediately.

Ms. Jean Becker, resident of Malvern Hills, asked the Council to study the issues of privatization. She spoke about the condition of the streets in Malvern Hills, in particular School Road and Wendover Road.

Ms. Leni Sitnick hoped that the budget would contain sufficient funds to oversee the enforcement of the UDO process. She hoped the City would cooperate with the County for some type of youth center.

Mr. Bob Emory, member of the Fraternal Order of Police, stated that they were supportive of a flat rate raise to all City employees.

Mr. Wayne Warren, retired police officer, asked the Council to stop the City's practice of eliminating from retirement checks the percentage the state retirement system gives in annual raises.

Mr. Jerry Sternberg suggested the City Council fund the Chamber of Commerce on a commission basis, allotting it funds only after it brings business to Asheville. He also asked the Council to delete the $18,000 funding for RiverLink, a public-private venture trying to restore business, recreation and light industry to areas along the French Broad and Swannanoa Rivers. He felt RiverLink is a political action committee designed to destroy the political power base of the riverside businesses.

Ms. Linda Wilkerson, Executive Director of the Community Arts Council, asked the City Council to continue its funding for the Community Arts Council.

Mr. Mike Summey spoke in favor of a centralized purchasing facility.

Mr. Bob Seldy, general contractor, spoke about the inefficiencies of the Inspections Division.

Mr. Mike Knisely, member of the Fire Department, spoke about the unfairness of City employees being paid 10% less than what others are making in comparable cities.

Mr. Roy Birchfield asked the Council not reduce any services relative to snow removal, leaf pickup, etc. He felt that we need to encourage people to clean up their property.

Ms. Karen Cragnolin, Executive Director of RiverLink, stated that RiverLink is prohibited from lobbying and is concerned only with revitalizing the river fronts.

Mr. Barry Olen asked the City Council to continue supporting the Asheville Downtown Association.

Mayor Michalove closed the public hearing at 5:43 p.m.

Mayor Michalove stated that the Council will take into consideration all the statements made and incorporate them before the adoption of the budget on June 16, 1992.

III. NEW BUSINESS: Continued

A. QUARTERLY DOWNTOWN REPORT

Mr. Don Martell, gave a detailed report on the parking services function from July 1, 1991 - April 30, 1992. He gave statistics on the new 297 parking meters which were installed and stated that it only took 19 weeks to payback opposed to the 26 weeks anticipated. He said that there were 379 more spaces that they would like to install new meters at and asked the City Council to consider their request to study this. He also asked the City Council to consider strengthening the citation aspect and increase citations as well as the penalties.

Mr. Martell also stressed the need to continue working on the streetscape aspect in downtown. He asked the City Council to consider funding of new streetscape projects.

Councilwoman Field expressed her pleasure of the charts furnished and asked to see a debt service chart on the two parking debts.

Mayor Michalove suggested Councilmen Peterson and Swicegood work with Mr. Martell and bring back a recommendation to the City Council relative to the revenue associated with the new meters, the addition of new meters, and the increase in citations.

Upon inquiry of Councilman Peterson, Mr. Martell said that there is approximately 100 unmetered parking spaces around the site of the new Federal Building.

Vice-Mayor Ellison stated that the City Council needs to consider the priority list on streets and sidewalks and to be consistent and fair to all citizens of Asheville.

V. OTHER BUSINESS:

A. APPROPRIATION OF FUNDS FOR SUMMER YOUTH PROGRAM

Mayor Michalove said that during the budget process, Vice-Mayor Ellison suggested the City Council consider appropriating $100,000 for summer jobs for youth of targeted areas. He said that the City could provide some significant jobs with some good supervision and good role modeling and an opportunity for some youths to get out of the drug scene.

Vice-Mayor Ellison hoped that the $100,000 appropriation out of the contingency fund would enable approximately 100 youths to be employed at $3.62 an hour for approximately 20-25 hours a week. He stated this summer youth program would employ kids between the ages of 14-17 who are still in school during the time period the Council is making this proposal. He feels that this might be an incentive to the kids who quit school, to get back to school in order to participate in this program.

Vice-Mayor Ellison moved to appropriate $100,000 out of the contingency fund for the summer youth program. This motion was seconded by Councilman Moore and carried unanimously.

B. MOTION AUTHORIZING THE MAYOR TO EXECUTE A BOUNDARY LINE AGREEMENT WITH BUNCOMBE COUNTY

Vice-Mayor Ellison moved to authorize the Mayor to execute a boundary line agreement with Buncombe County in order to establish a boundary line between the new jail and the City's parking lot. This motion was seconded by Councilman Moore and carried unanimously.

C. CLAIMS

City Manager Bean said the following claims were received by the City of Asheville during the week of May 18 - 22, 1992: Carlos Peleaz, Jr., (Sanitation); Jo Davidson (Water); Roberta Atkins (Water); Nils Swanson (Water); Elaine Haynes (Water); and Darryl Harris (Water).

He stated that the City also received the following claims during the week of May 25-29, 1992: Elaine C. Taylor (Streets) and Mary Read (Sanitation).

He stated that these claims have been referred to the appropriate insurers for investigation.

VI. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:10 p.m.

William S. Holcatty
CITY CLERK

H. M. Michalove
MAYOR

Exhibit "A"

RESOLUTION OF BEAVERDAM RUN CONDOMINIUM ASSOCIATION

WHEREAS, the Beaverdam Run Condominium Association is an association of property owners within the condominium development known as "Beaverdam Run" located in Beaverdam Valley adjacent to the existing municipal limits of the City of Asheville; and

WHEREAS, the City Council of the City of Asheville has previously announced an intent to annex an area including Beaverdam Run into the City of Asheville upon the successful conclusion of the annexation of other portions of Beaverdam Valley, which annexation became effective _____; and

WHEREAS, the City Council of the City of Asheville, by Resolution No. 91-147, dated August 20, 1991, adopted a resolution of consideration of annexation of areas including Beaverdam Run; and

WHEREAS, the City Council of the City of Asheville, by Resolution No. 92-10, dated February 18, 1992, adopted a resolution of intent stating the intent of the City of Asheville to annex the area including Beaverdam Run; and

WHEREAS, an ordinance providing for the annexation of an area including Beaverdam Run has been adopted by the City Council of the City of Asheville on first and second readings, and is scheduled for third and final reading on June 2, 1992; and

WHEREAS, some portions of the tract of land intended for development as part of the Beaverdam Run condominium project has not yet been developed and said areas have been omitted from the proposed annexation; and

WHEREAS, the Beaverdam Run Condominium Association does not support the current annexation proceeding which would provide for an effective annexation date of June 30, 1992, but is supportive of having the Beaverdam Run development included in an annexation commencing in 1993 with an effective date no sooner than June 30, 1994; and

WHEREAS, the members of this Association unanimously agree that in consideration of the City terminating the current annexation proceedings, it shall not participate in any direct or indirect opposition to any further annexation proceedings by the City of Asheville which would provide for annexation of the entire Beaverdam Run condominium project site on or after June 30, 1994; and

WHEREAS, BEAVERDAM RUN INC. the owner and developer of the undeveloped portions of the Beaverdam Run tract joins in this resolution for the purpose of stating his consent to the

contents hereof and to further confirm and agree that he will take all steps necessary to petition for the voluntary annexation into the City of Asheville for an effective annexation date of June 30, 1994, or any portions of the Beaverdam Run tract which he may own at that time;

NOW, THEREFORE, BE IT RESOLVED BY THE CONDOMINIUM ASSOCIATION OF BEAVERDAM RUN THAT:

In consideration of the City of Asheville ceasing its current annexation proceedings, the Condominium Association will not directly or indirectly oppose, by legal action or otherwise, an annexation of the Beaverdam Run condominium area in any proceeding providing for the annexation of said area into the City of Asheville with an effective date of on or after June 30, 1994.

The signatures of the undersigned authorized representatives of the Beaverdam Run Condominium Association hereby certify that the foregoing resolution of the Beaverdam Run Condominium Association was duly adopted at a meeting duly noticed on this the 29th day of May, 1992.

Attest:

BEAVERDAM RUN CONDOMINIUM ASSOCIATION

Mary Vanwood (Seal)
Secretary

By: Hampton H. Roll
President

President, Beaverdam Run Inc.

The undersigned, Gerald Candler, being the owner and developer of the undeveloped portions of the Beaverdam Run condominium tract, hereby certifies his consent to and support of the foregoing resolution and further certifies that he will sign all documents necessary for the annexation into the City of Asheville of all portions of the Beaverdam Run condominium tract owned by him, so long as the effective date of the annexation shall not be prior to June 30, 1994.

Gerald Candler, President (Seal)

ATTEST:

Secretary

(Corporate Seal)

****

STATE OF North Carolina
COUNTY OF County

I, Notary Public of the County and State aforesaid certify that James Nammack, personally came before me this day and acknowledged that he is the Secretary of Beaverdam Run Condominium Association, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President and attested by him self as its Secretary.

Witness my hand and notarial seal this 29th day of May, 1992.

Christine Bird Luna
Notary Public
My Commission Expires: 12/17/92

****

STATE OF North Carolina
COUNTY OF Buncombe

I, Christine Bird Luna, Notary Public of the County and State aforesaid certify that Gerald Candler, owner and developer President, Beaverdam Run Inc. of the undeveloped portions of Beaverdam Run tract, personally came before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this 27th day of May, 1992.

Christine Bird Luna
Notary Public
My Commission Expires: 12/17/92

Tuesday - June 16, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the June 2, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-71 - RESOLUTION OF APPRECIATION TO THE ASHEVILLE SPORTS COMMITTEE AND THE ASHEVILLE CIVIC CENTER STAFF FOR THEIR PARTICIPATION IN THE 1992 SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove read the resolution of appreciation commending the Asheville Sports Committee and the staff of the Asheville Civic Center for going beyond the call of duty in showing the coaches, players, and fans of the Southern Basketball Conference the hospitality of the City of Asheville.

Mayor Michalove recognized the members present at the meeting - Chairman Lou Bissette, LaVerne Laney, Carolyn Ketchum, Fred Rutledge, Dave Hart, Richard Schumacher and Bill Murphy. He presented them with a shirt with the City of Asheville emblem on it and thanked them for their participation in the Committee.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-71. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 196

B. PROCLAMATION HONORING DAVE HART

Mayor Michalove read the proclamation honoring Dave Hart for being selected for induction into the National Association of Collegiate Directors of Athletics Hall-of-Fame. On behalf of the City Council and all of Asheville's citizens, he extended best wishes to Dave.

C. PRESENTATION OF QUARTERLY B*E*S*T AWARDS.

City Manager Bean said that on May 14, 1992, the B*E*S*T Committee met and chose Joe Byrd and Verl Emrick as joint winners.

Mr. Byrd was nominated for helping a fellow City employee who discovered she had a dead battery when she was going home one evening. Joe stopped everyone in the parking lot to ask if they had jumper cables and stayed until the car was started.

Mr. Emrick was nominated for going above and beyond the call of duty by stopping to help victims of a car accident. Unfortunately, Verl was hit by another vehicle and he spent several days in the hospital and then in a leg cast.

City Manager Bean congratulated both employees and presented them a certificate.

D. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD

City Manager Bean presented the Government Finance Officers Association's Distinguished Budget Presentation Award to Robert G. Wurst, Audit/Budget Director. This award was presented to the City of Asheville for the fiscal year beginning July 1, 1991. He said this is the third straight year the City of Asheville has received this award.

E. RESOLUTION NO. 92-73 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE LARRY SMITH

Mayor Michalove read the resolution stating that Larry has been an employee for 26 years and has requested retirement from his position as Security Officer at the Civic Center. He expressed City Council's appreciation to Larry for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-73. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 198

F. RESOLUTION NO. 92-74 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JOE BRYANT

Mayor Michalove read the resolution stating that Joe has been an employee for 26 years and has requested retirement from his position as Park Warden with the Parks and Recreation Department. He expressed City Council's appreciation to Joe for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-74. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 199

G. RESOLUTION NO. 92-75 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HAROLD TAYLOR

Mayor Michalove read the resolution stating that Harold has been an employee for 28 years and has requested retirement from his position as Motor Equipment Operator II with the Streets Division. He expressed City Council's appreciation to Harold for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-75. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 200

H. RESOLUTION NO. 92-76 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DAVID PRUETT

Mayor Michalove read the resolution stating that David has been an employee for 31 years and has requested retirement from his position as Manager in the Fleet Management Division. He expressed City Council's appreciation to David for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-76. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 201

I. RESOLUTION NO. 92-77 - RESOLUTION IN MEMORY OF MAURICE LOCKHART

Mayor Michalove read a resolution in memory of Maurice Lockhart who served the City of Asheville as a Laborer in the Public Works Department. He expressed City Council's deep appreciation to his years of service and extended to his family their sincere sympathy upon his passing.

Mayor Michalove presented the resolution to Jim Ewing, Director of Public Works, who will in turn send the resolution to Mr. Lockhart's family who live out of town.

Councilwoman Field moved for the adoption of Resolution No. 92-77. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 202

J. PROCLAMATION PROCLAIMING THE WEEK OF JUNE 14-20, 1992, AS "NORTH CAROLINA FIRE COLLEGE WEEK"

Mayor Michalove proclaimed the week of June 14-20, 1992, as "North Carolina Fire College Week" in the City of Asheville and presented it to Chris Morgan, Fire District Chief.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET

ORDINANCE NO. 1973 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET

Mayor Michalove opened the public hearing at 4:41 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that this dwelling is partially burnt and is occupied by vagrants. He said the lot is overgrown and infested with rats. The owner has failed to take any action to correct or demolish the dwelling. He said the estimated value of the house is $15,000 and the repair cost is $50,000. He then showed a video of the condition of the house.

Vice-Mayor Ellison requested Habitat for Humanity and Mountain Housing Opportunities be contacted to see if they would be willing to rehabilitate the house prior to scheduling it for demolition by the City of Asheville. He asked that this procedure be followed for all future demolitions.

Vice-Mayor Ellison asked the City Manager to provide the Council, within approximately one month, how many demolitions have taken place by the City and how much money the City been reimbursed for these demolitions. He also asked that liens be established immediately after the demolitions take place and that the Tax Office move as quickly as possible in getting the City reimbursed.

Mayor Michalove closed the public hearing at 4:49 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1973. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1973 passed on its first reading.

Councilwoman Field moved to suspend the rules and proceed to the second reading of Ordinance No. 1973. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1973 passed on its second reading.

It was the consensus of Council, prior to the third reading of this ordinance, to request Habitat for Humanity and Mountain Housing Opportunities look at this house, as well as future houses, to see if they would like to rehabilitate them before demolition.

B. PUBLIC HEARING RELATIVE TO AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET

ORDINANCE NO. 1974 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET

Mayor Michalove opened the public hearing at 4:54 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, said that this dwelling is dilapidated, unfit for human habitation and dangerous to the general public. He said they have had no response from the owner and has had to serve notice on her by publication. He said the estimated value of the house is $19,200 and the repair cost is $39,800. He then showed a video of the condition of the house. He stated that the Public Works Department would demolish the house for $2,000.

As with the prior demolition, Vice-Mayor Ellison requested Habitat for Humanity and Mountain Housing Opportunities be contacted to see if they would be willing to rehabilitate the house prior to third reading on this ordinance.

Mr. Hixson stated that just last week, Cindy Weeks with Mountain Housing Opportunities came in to his office and he gave her a list of all the houses the Inspections Division is working on relative to demolitions. He asked her to let him know if Mountain Housing Opportunities would be interested in any of them. To date he has not heard anything from her.

Mayor Michalove closed the public hearing at 4:57 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1974. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1974 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1974. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1974 passed on its second reading.

C. **PUBLIC HEARING RELATIVE TO A RESOLUTION DIRECTING THAT THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES**

RESOLUTION NO. 92-78 - RESOLUTION DIRECTING THAT THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

Mayor Michalove opened the public hearing at 4:59 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from at least a majority of all property owners on Woodland Road for the City to improve Woodland Road. The petitioning property owners represent at least a majority of the property owners and represent at least a majority of all the lineal feet of the frontage of the street. The petitioning property owners want to accomplish these improvements by using the special assessment process. The total amount of the project is $13,896 and 50% of the total project cost will be assessed against the benefited property owners. The Street Division will supply the equipment and the labor for the project.

Mayor Michalove closed the public hearing at 5:02 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-78. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 203

D. **PUBLIC HEARING RELATIVE TO A RESOLUTION DIRECTING THAT THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE AND BEAVER LAKE HEIGHTS AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES**

RESOLUTION NO. 92-79 - RESOLUTION DIRECTING THAT THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE AND BEAVER LAKE HEIGHTS AND ENDING AT THE DEAD END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

Mayor Michalove opened the public hearing at 5:03 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Harold Huff, Director of Water and Engineering, stated that a petition has been received from the property owners in Beaver Lake Heights and Greenleaf Circle for the extension of 950 lineal feet of 6-inch waterline. The property owners have agreed to pay 58% ($15,550) of the project cost by special assessment. The total amount of the project is $26,850.

Mayor Michalove closed the public hearing at 5:04 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-79. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 205

III. OLD BUSINESS: NONE

IV. NEW BUSINESS:

A. ORDINANCE ADOPTING THE 1992-93 ANNUAL OPERATING BUDGET

Mayor Michalove stated that due to a matter of a legal nature, the City Council will not adopt the budget today. He stated that at the end of the meeting today, the Council will recess until June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building, at which time adoption of the budget will be considered.

Ms. Eleanor Lloyd, Community for Economic Justice, asked the City Council to contribute $3,000 for a feasibility study on the incubator program. She said that this $3,000 is only 18% of the total cost of the study.

Upon inquiry of Mayor Michalove, Ms. Lloyd said that if the City contributed $3,000 for the feasibility study that in no way would be City be obligated to pay any more money if the feasibility study proved that an incubator program should be started.

Vice-Mayor Ellison felt that the City should not contribute the $3,000 for the study but he would be willing to write a letter in support of the concept. He wondered if the Chamber of Commerce could update their 1985 feasibility study with some of the $100,000 the City has budgeted to the Chamber.

Councilman Worley felt that the Chamber of Commerce's update would cost more than the $3,000 asked to be contributed. He felt that the City needs to support economic development and he is in favor of contributing the $3,000.

Mr. Mike Cheatham, member of the Board of Directors for Community for Economic Justice, urged the City Council to contribute $3,000 for the feasibility study.

Mr. Albert Sneed, filling in for Scott Hughes of the CIBO Budget Committee, urged the City to 1) move forward on curb-side recycling, 2) move forward with privatization of sanitation services, 3) consider appointing a blue ribbon committee to investigate allegations on whether City departments are running efficiently; and 4) concentrate on building the tax base in the community.

B. MOTION FOR APPROVAL OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BUDGET FOR 1992-93

Mayor Michalove stated that this item would be considered at the meeting on June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building.

C. ORDINANCE NO. 1975 - AN ORDINANCE AMENDING SECTION 2-56 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (ASHEVILLE AREA CIVIC CENTER COMMISSION MEMBERSHIP)

City Attorney Slawter stated that this ordinance will expand the membership of the Asheville Area Civic Center Commission from 9 to 11 members and change the ex-officio membership. He said it will also amend the limitation on membership which is currently more restrictive than state law requires. State law allows a person to serve in one appointive or elective office in addition to being appointed

to a commission such as the Civic Center Commission. The current ordinance prohibits a member of the Civic Center Commission from serving in any other elective or appointive office.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it will not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1975. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1975. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its second reading.

Councilwoman Field moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1975. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1975 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 82

D. ORDINANCE NO. 1976 - BUDGET AMENDMENT FOR YEAR-END ADJUSTMENTS

City Manager Bean explained that this budget amendment does not appropriate any additional funds not already in the budget and simply cleans up the accounting procedures.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it will not be read.

Councilman Moore moved for the adoption of Ordinance No. 1976. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 7-0, Ordinance No. 1976 passed on its first reading and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 84

V. CONSENT:

A. **MOTION TO SET PUBLIC HEARING ON JUNE 30, 1992, TO CREATE NEW ZONING FOR 2310 HENDERSONVILLE ROAD.**

Summary: The Asheville Planning and Zoning Commission on June 3, 1992, reviewed and recommended CH Commercial Highway zoning for 2310 Hendersonville Road.

B. **RESOLUTION NO. 92-72 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY**

Summary: This resolution will reappoint Stephen W. Woody as a member of the Asheville Regional Airport Authority to serve an additional four year term, term expiring June 30, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 197

C. **RESOLUTION NO. 92-80 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS/POLICE ADVISORY COMMITTEE**

Summary: This resolution will reappoint A. Robert York, Andrea Purcell, Marvin Nockow and Logan Delany as members of the Citizens/Police Advisory Committee to serve two year terms, terms expiring May 1, 1994, or until their successors have been duly appointed and qualified.

This resolution will also appoint Shannon Adell for a two year term, term expiring May 1, 1994, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 207

D. **RESOLUTION NO. 92-81 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION**

Summary: This resolution will reappoint Erline McQueen, Sharon Hulme and Jan Davis as members of the Asheville Area Civic Center Commission to serve three year terms, terms expiring June 30, 1995, or until their successors have been duly appointed and qualified.

This resolution will also appoint Barbara Halton to serve a three year term, term expiring June 30, 1995, or until her successor has been duly appointed and qualified and will appoint Hayes Martin to serve a two year term, term expiring June 30, 1994, or until his successor has been duly appointed and qualified.

E. RESOLUTION NO. 92-82 - RESOLUTION APPOINTING MEMBERS TO THE CIVIL SERVICE BOARD

Summary: This resolution will reappoint Wade Thomas to serve a two year term, term expiring May 21, 1994, or until his successor has been duly appointed and qualified.

This resolution will also appoint Andy Brantley to a three year term, term expiring May 21, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 209

F. RESOLUTION NO. 92-83 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: This resolution will reappoint Douglas Franklin, Dr. John Henderson and Ms. Phyllis Martin to serve additional two year terms, terms expiring July 19, 1994, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 210

G. RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

This item has been deleted from the agenda at this time.

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CITY OF ASHEVILLE APPOINTMENTS ON THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mayor Michalove announced that Councilwoman Barbara Field has been appointed as Chairman of the Asheville Regional Housing Consortium. He said that the other City appointment is Tony Sayer from Affordable Housing Coalition.

B. UDO RECOMMENDATIONS

Councilman Moore reported on the following recommendations from the Mayor's UDO Committee:

1. Send a letter of appreciation to the present UDO Committee with notification that the review of policy issues will be scheduled by Council in July and August. The UDO Committee should stand ready to be reconstituted when and if it is appropriate.

2. This Committee accepts the policy issues as defined by the UDO Committee with the exception of Downtown Design Review. We recommend that the following remaining issues be accepted by Council for review:

   Speculative Grading
   Grading in the Buffer Zones
   Zero Run Off
   Manufactured Housing
   Group Development/Planned Unit Development

3. These remaining major policy issues should be republished in the "City Works" section of the Asheville Citizen Times with a final request for public additions and comment.

4. We direct the City Manager to complete the draft of the following sections of the zoning ordinance: Flood Plain, Subdivision, Erosion Control and the River District by September 1, 1992.

5. We recommend a "model" review process as follows:

   A. A draft of the proposed UDO sections under consideration will be issued to the Planning and Zoning Commission (hereinafter "P&Z") and to the public for their review.
   B. City Council will hold a public community work session for final community input.
   C. P&Z will hold a public hearing.
   D. P&Z will revise the proposed UDO sections based on the findings of the community work session and the public hearing.
   E. P&Z will adopt each final UDO section or group of UDO sections and send it on to City Council.
   F. City Council will hold a public hearing.
   G. City Council will adopt the UDO section or group of sections.

6. At the next Council work session, the City Council will finalize the list of major policy issues concerning the DUO, prioritize them and set a schedule for addressing all those major public policy issues in July and August..

Councilman Moore said that downtown design review was removed from the list of major public policy issues because it was felt that it is much more a state and federal proposition. He said that it is unlikely that the City will be able to do much with mandatory design review unless a historic district approach is taken and that such an approach has very little to do with planning and zoning.

Councilman Moore moved to accept the recommendations submitted by the Mayor's UDO Committee. This motion was seconded by Councilwoman Field and carried unanimously.

Due to Councilman Worley and Councilwoman Field being out of town for the next City Council worksession (July 21, 1992), the City Council will hold their worksession on this matter as soon as possible.

Ms. Carolyn Wallace asked that because of the broad range of issues, the time be extended for addressing all the major public policy issues.

C. GROUP DEVELOPMENTS

Mr. Tony Nicholson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on June 3, 1992:

BUDWEISER (ADDITION)

Mr. Nicholson said that Hubie Wood, owner, is proposing a 8,600 square foot addition to the Budweiser Distribution Center located at the intersection of Sweeten Creek Road and Mills Gap Road. The area to be disturbed by the project is 15,300 square feet and is currently flat and paved. The site is contained within the Heavy Industrial Zoning District and is adjacent to lots zoned either Heavy Industrial or Light Industrial. The structure, which will be used as an Industrial Drive-Through/Warehouse, meets or exceeds all requirements of the Asheville zoning ordinance including parking and landscaping. In addition, all utilities and the Fire Department have approved the availability of services to the site. At their June 3, 1992, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for the Budweiser addition.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

65 OLD HAW CREEK ROAD APARTMENTS

Mr. Nicholson said the group development request for 65 Old Haw Creek Road Apartments is a proposal to construct 20 residential apartments. The site is located on Old Haw Creek Road near the intersection of Weaver Hill Road and has an area of 1.34 acres. The site and the adjacent lots lie within the R-3 Residential Zoning District. The site, which is currently vacant, is generally flat, but moderately sloping downward at the back.

The site plan proposes two, two-story buildings each of which house 10 units. With a density of 14.9 units per acre, the project meets the R-3 density requirement of 16 units per acre. In addition, the proposal meets all parking, landscaping, and setback requirements. Access to the site is from a proposed driveway and requires a permit before construction. Water and sewer services are available to the site upon the condition that the developer substitute a 6" water line from the 2" water line as shown on the plan. Adequate water flow and pressure are available for fire protection.

Public contact with the Planning Department has consisted of three phone calls, one visit, and one letter from neighbors and other interested parties expressing concerns about increased traffic volumes and the proposed density of the project.

At their June 3, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the group development request for 65 Old Haw Creek Road Apartments subject to one contingency:

1. The developer must submit a letter to the Planning Department stating that he will comply with the request of the Water Department and substitute a 6" water line for the proposed 2" water line from the water main to the site.

The developer has agreed to comply with the Water Department request and will soon be submitting a letter as verification.

There was a very brief discussion relative to density requirements.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

D. CLAIMS

City Manager Bean reported that the following claims were received by the City of Asheville during the week of June 1-5, 1992: Gregory Benton (Parks), Esfandiar Ostovar (Water), and Barbara J. Thomas (Water).

He said the following claims were received by the City of Asheville during the week of June 8-12, 1992: James Hyatt (Water), Roger Moore (Streets), Debbie Rice (Water), and Gina Golkiewicz (Streets).

He said these claims have been referred to the appropriate insurers for investigation.

E. LAWSUITS

City Manager Bean said that a lawsuit was served upon the City of Asheville on June 8, 1992, from Merrimon Avenue Baptist Church, Inc., relative to an appeal from a Board of Adjustment decision.

He also said that a lawsuit was served upon the City of Asheville on June 12, 1992, from Shoney's of Enka, Inc., d/b/a Sgibet's of Asheville, relative to an appeal from a Board of Adjustment decision.

He said these lawsuits have been referred to the appropriate legal counsel for action.

F. RALPH BISHOP

Mr. Ralph Bishop spoke about gambling taking place at J.B. Plemmons' establishment on Riverside Drive.

G. RECESS

At 6:00 p.m., Councilman Worley moved that the City Council go into executive session on a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

Councilman Worley then moved to recess the Council meeting until June 17, 1992, at 5:00 p.m. in Room 623 of the City Hall Building. This motion was seconded by Councilwoman Field and carried unanimously.

Wednesday - June 17, 1992 - 5:00 p.m.
Room 623 - City Hall Building

Continuation of Regular Meeting of June 16, 1992

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

At 5:00 p.m. Councilman Worley moved to go into executive session on a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:48 p.m. Mayor Michalove reconvened the meeting.

ORDINANCE NO. 1977 - AN ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR THE FISCAL YEAR 1992/93

Mayor Michalove stated that the matter regarding the CP&L franchise fee has been an issue long before the annexation of the power plant at Lake Julian approximately five years ago. CP&L has made a decision to pay the 1991-92 franchise fee in the amount of $650,059.91 and the City Council has agreed to sit down with them between now and December 31, 1992, and discuss the issues that have been brought before the City Council regarding the franchise fee. The City Council understands that the City will receive that check between now and June 30, 1992, for the current year and the City still has in the budget the expected amount of $650,059.91 for 1993. He said that with that understanding, the City Council will be able to consider the budget for fiscal year 1992-93.

In regard to the issue relative to the City contributing $3,000 towards a feasibility study for an incubator program, Mayor Michalove stated that he is not in favor of funding the project. He did state, however, that he would be in favor of a resolution of support of the program.

Vice-Mayor Ellison stated that due to the initial cost of the City being the lead entity in the new HOME Program and because City residents pay County taxes, he would

support a resolution of support for the program but not for funding $3,000 to the program. He suggested that the County fund the additional $3,000 if the City does not chose to fund the program.

Councilman Worley spoke in support of funding the $3,000 for the study because he was concerned about economic development in the City. He said that the City was only being asked to fund $3,000 for the study, when the County was paying $7,000 along with another $7,000 from private and other sources.

Councilman Swicegood did not support funding the feasibility study but did support a resolution of support for the program.

Councilman Moore and Councilwoman Field said that they were very much torn between funding the $3,000 and not funding it because of the tight budget the Council is working with. Therefore, they were unable to support the funding.

Councilman Worley moved to fund $3,000 for the feasibility study for the incubator program. This motion died for a lack of a second.

Councilman Moore moved to adopt a resolution of support for the incubator program. This motion was seconded by Councilwoman Field and carried unanimously.

Ms. Eleanor Lloyd was very disappointed that the City decided not to fund their share of the feasibility study and hoped that the consultant would not kill the program.

Vice-Mayor Ellison suggested that Ms. Lloyd ask the County or CIBO to fund the $3,000 or perhaps ask the consultant if he would be willing to reduce the cost by $3,000.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read.

Councilman Moore moved for the adoption of the 1992/93 annual operating budget. This motion was seconded by Vice-Mayor Ellison and it carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no."

ORDINANCE BOOK NO. 13 AT PAGE 100

MOTION RELATIVE TO APPROVAL OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BUDGET FOR 1992/93

Vice-Mayor Ellison was very much concerned that the Water Authority expected to automatically raise the water bills by 4% every year for the next several years. He felt the City Council needed greater input on the Water Authority issues.

Councilman Peterson was also very concerned over the automatic increases to the water bills and felt that the City Council needed to pay closer attention to the members appointed by the City to the Water Authority and make sure that the Authority is working the way it was set up to work.

There was some discussion about the Water Agreement and the Sullivan Act. It was stated that the Water Agreement deals with many other things other than just the water issue.

Mayor Michalove felt that the voters on the water bond issue were adequately notified that there were going to be automatic increases in the water bills.

Vice-Mayor Ellison stated that City Attorney Slawter will be providing the City Council with a history of the Sullivan Act and how it has affected the City and the County.

Councilman Worley stated that all City appointments to boards and commissions to be looked at closely.

Councilman Moore moved for the adoption of the Asheville-Buncombe Water Authority budget for 1992/93. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Peterson voting "no."

ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:10 p.m.

William D. Holcomb
CITY CLERK

W. Mc. Michalove
MAYOR

Tuesday - June 30, 1992 - 4:00 p.m.
Asheville Civic Center - Art Museum Area
Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison

INVOCATION

Councilman Peterson gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the June 16, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-84 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE GARY FOSTER

Mayor Michalove read the resolution stating that Gary Foster has been an employee for 19 years and has requested retirement from his position as Police Captain in the Police Department. He expressed City Council's appreciation to Gary for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-84. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 211

B. RESOLUTION NO. 92-85 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE LAWANDA NIX

Mayor Michalove read the resolution stating that LaWanda Nix has been an employee for 15 years and has requested retirement from her position as Deputy Revenue Collector in the Collections Division of the Finance Department. He expressed City Council's appreciation to LaWanda for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-85. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 212

C. RESOLUTION NO. 92-86 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE PAUL LOWE

Mayor Michalove read the resolution stating that Paul Lowe has been an employee for 8 years and has requested retirement from his position as Custodian in the Park Maintenance Division of the Parks and Recreation Department. He expressed City Council's appreciation to Paul for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-86. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 213

D. RESOLUTION NO. 92-87 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE IOLA BYERS

Mayor Michalove read the resolution stating that Iola Byers has been an employee for 29 years and has requested retirement from her position as Recreation Center Director with the Parks and Recreation Department. He expressed City Council's appreciation to Iola for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-87. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 214

E. RESOLUTION NO. 92-88 - RESOLUTION IN MEMORY OF FRANCINE DELANY

Mayor Michalove read the resolution stating that Mrs. Delany, who was a veteran educator, worked her way up from secretary to principal in the Asheville City School system. In recognition of her contributions to the City Council, the City of Asheville and its citizens, the City Council expresses its deep appreciation to her service and extends to her family its sincere sympathy upon her passing. He presented the resolution to Mr. Logan Delany.

Resolution No. 92-88 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 215

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CREATING NEW ZONING FOR 2310 HENDERSONVILLE ROAD

ORDINANCE NO. 1978 - ORDINANCE CREATING NEW ZONING FOR 2310 HENDERSONVILLE ROAD (PETITION OF CITY OF ASHEVILLE)

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice, Urban Planner II, said that the Asheville Planning and Zoning Commission on June 3, 1992, reviewed and recommended CH Commercial Highway zoning for 2310 Hendersonville Road (Bosco's Italian Eatery). She said this zoning is required as a result of the recent satellite annexation requested by Asheville Oil Co. Inc.

At Councilman Swicegood's suggestion, City Attorney Slawter was asked to see if there was some way the satellite annexation procedure and the zoning procedure could be combined at the same meeting.

Mayor Michalove closed the public hearing at 4:32 p.m.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1978. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 1978 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1978. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1978 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1978. This motion was seconded by Councilwoman Field and carried on a 5-1 vote, with Councilman Moore voting "no."

On a roll call vote of 6-0, Ordinance No. 1978 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 104

III. OLD BUSINESS:

A. ORDINANCE NO. 1973 - THIRD READING OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 40-1/2 RECTOR STREET

Mr. Jeff Trantham, Assistant Director of Building Inspections said proceedings have heretofore been instituted in accordance with the City of Asheville Housing Code and a condemnation hearing was held on March 19, 1992. At said hearing it was determined that 40-1/2 Rector Street was unfit for human habitation. The dwelling had been partially burnt and was occupied by vagrants. The lot was overgrown and infested with rats. The owner of the dwelling was given 30 days from receipt of the Order of Findings and Fact to either renovate or demolish the dwelling and the owner has failed to obey the Order in any respect. The resolution calling for a public hearing on this issue was adopted on June 2, 1992. The public hearing was held on June 16, 1992, at which time the ordinance passed on first and second reading.

Mr. Trantham said that Mountain Housing Opportunities and Western North Carolina Habitat for Humanity were contacted to see if they would be interested in rehabilitating this dwelling before action to demolish was taken. Both agencies declined the offer.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 1973 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 76

B. ORDINANCE NO. 1974 - THIRD READING OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 34 HAZZARD STREET

Mr. Jeff Trantham, Assistant Director of Building Inspections said proceedings have heretofore been instituted in accordance with the City of Asheville Housing Code and a condemnation hearing was held on January 22, 1992. At said hearing it was determined that 34 Hazzard Street was dilapidated, unfit for human habitation, and dangerous to the general public. The owner of the dwelling was given 30 days from receipt of the Order of Findings and Fact to either renovate or demolish the dwelling and the owner has failed to obey the Order in any respect. The resolution calling for a public hearing on this issue was adopted on June 2, 1992. The public hearing was held on June 16, 1992, at which time the ordinance passed on first and second reading.

Mr. Trantham said that Mountain Housing Opportunities and Western North Carolina Habitat for Humanity were contacted to see if they would be interested in rehabilitating this dwelling before action to demolish was taken. Both agencies declined the offer.

Mayor Michalove said members of Council have been previously furnished with copies of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 1974 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 79

IV. NEW BUSINESS: NONE

V. CONSENT:

A. RESOLUTION NO. 92-89 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF PLACING FENCING, DRAINAGE AND PARKING WITHIN THE RIGHT-OF-WAY OF I-240 UNDERNEATH THE SMOKY PARK BRIDGE

Summary: The Street and Sanitation Divisions of the Department of Public Works has temporarily relocated to the J.M. Westall property located at 300 Riverside Drive. The right-of-way for I-240 runs through this property and its use is controlled by the North Carolina Department of Transportation. In order for the Street and Sanitation Divisions to maximize the use of the Westall property, they need to have an encroachment agreement with NC DOT to allow use of the property within the right-of-way of I-240 for

parking purposes. There will be fencing and drainage improvements placed upon the right-of-way as well. The use of the right-of-way underneath the Smoky Park Bridge of I-240 will have no effects upon the upkeep and maintenance of I-240 or interfere with its traffic carrying capabilities.

RESOLUTION BOOK NO. 19 AT PAGE 216

B. RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

This item was deleted from the agenda.

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 92-90 - RESOLUTION AUTHORIZING THE MAYOR AND THE CITY ATTORNEY TO EXECUTE AN AFFIRMATION OF SUBORDINATION FOR THE PACK PLAZA PROJECT

Mayor Michalove read the resolution stating that the City of Asheville is the beneficiary under three deeds of trust regarding the Pack Plaza Project, all of which are subordinate to the first mortgage held by the Bank of Scotland, secured by a deed of trust in favor of the Bank of Scotland. The Bank of Scotland has requested that the City enter into an agreement which affirms the subordination of those three deeds of trusts to the deed of trust of the Bank of Scotland. This resolution would authorize the Mayor and the City Attorney, as trustee under the three deeds of trust in which the City is a beneficiary, to execute an Affirmation of Subordination wherein the City affirms the subordination of its three deeds of trust to the deed of trust in favor of the Bank of Scotland for the Pack Plaza Project.

Councilman Moore moved for the adoption of Resolution No. 92-90. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 217

B. GROUP DEVELOPMENT - 794 RIVERSIDE DRIVE WAREHOUSE

Mayor Michalove said that the Planning and Zoning Commission will consider an item relative to an amendment to

the site plan for 794 Riverside Drive (warehouse owned by Jerry Sternberg) on July 1, 1992. After the Planning and Zoning Commission considers the amendment it then is considered by the City Council.

In an effort to expedite consideration by the City Council, Councilman Worley moved to set a public hearing on the amended site plan for July 14, 1992, at 4:00 p.m. in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilman Moore hoped that Mr. Sternberg realized that this action is made by the Council to show the effort to expedite m ers of importance to the entire community.

Councilman Peterson felt this action is a good move in streamlining how government works and making the process more efficient.

Councilman Worley echoed Councilman Peterson's comments and stated that this action shows how government can be responsive.

Councilwoman Field was concerned about deviating from rules and regulations set but agreed with Councilman Worley that government needs to be responsive.

C. COUNCILMAN PETERSON COMMENDING POLICE DEPARTMENT

Councilman Peterson commended Chief Gerald Beavers and the entire Police Department staff for their efficient handling of the parades recently held in Asheville.

D. RALPH BISHOP

Mr. Ralph Bishop spoke about corruption in the Asheville ice Department relative to lottery sales taking place.

V. ADJOURNMENT

Mayor Michalove adjourned the meeting at 4:50 p.m.

William F. Burnett
City Clerk

H. Lee Michalove
Mayor

Tuesday - July 14, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the June 30, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JULY 1992 AS "RECREATION AND PARK MONTH"

Mayor Michalove proclaimed July 1992 as "Recreation and Park Month" in the City of Asheville and presented it to Ray Kisiah, Director of Parks, Recreation and Public Facilities.

B. RESOLUTION NO. 92-91 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TERRY SMITH

Mayor Michalove read the resolution stating that Terry Smith has been an employee for 37 years and has requested retirement from his position as Maintenance Superintendent with the Asheville Civic Center. He expressed City Council's appreciation to Terry for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-92. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 218

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDMENTS TO THE APPROVED SITE PLAN FOR THE RIVERSIDE DRIVE WAREHOUSES LOCATED AT 794 RIVERSIDE DRIVE

Mayor Michalove opened the public hearing at 4:21 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that in April, 1991, the Asheville Planning and Zoning Commission and the Asheville City Council approved, with two contingencies, the group development site plan for a warehouse at 794 Riverside Drive owned by Jerry Sternberg. One of the contingencies dealt with floodproofing the building in accordance with the City's floodplain ordinance. The other contingency dealt with the developer reducing the driveway width for the loading area to 24 feet and rearranging the paving to allow trucks to back into the loading berth.

He said a revised plan complying with the contingency relative to the driveway width was presented to the Planning Department on May 13, 1991, and a zoning permit was issued based on this revised site plan.

An inspection of the site for zoning compliance in mid May 1992 identified several deviations from the approved site plan. These deviations included:

The driveway for the loading area was constructed with a width of 30 feet;

Only seven of the fourteen required street trees were planted;

The required parking lot trees and buffer trees were not planted; and

The location of the parking area was changed.

The owner of the project was notified of the deviations in a letter dated May 22, 1992, and instructed by telephone as to what actions he would need to take to resolve the deviations from the site plan. Actions necessary to resolve the deviations are:

Provide the required landscaping;

Provide a revised, as built site plan; and

Request the Planning and Zoning Commission and City Council to remove the contingency limiting the driveway width to 24 feet.

A public hearing date on the matter was scheduled by City Council, who also requested a recommendation from the Planning and Zoning Commission. The issue was discussed by the Planning and Zoning Commission at their July 1, 1992, meeting and the following recommendations were made:

1. The amendments to the site plan which can be approved by the Planning Director (change in location of parking area) be approved;

2. A revised, as-built site plan, showing all modifications to the approved plan, be submitted to the Planning Department;

3. No variances to the landscaping ordinance be granted under any condition; and

4. The contingency regarding the width of the driveway be removed.

The motion carried with a vote of 6-1.

Mr. Green said that he had met with the owner's representative, Ben Slosman, at the site and determined that only 6 trees would be required in order to meet the City's landscaping ordinance.

At the request of Councilman Worley, Mr. Green pointed out the differences in the site plan originally approved.

Upon inquiry of Vice-Mayor Ellison, Mr. Green stated that the landscape ordinance requires 1 street tree for every 40 feet of street frontage or any portion thereof. The warehouse in question has 545 feet street frontage, thereby requiring 14 street trees.

Councilman Peterson stated that in looking at the site plan the trees already looked close together without the additional six required.

Councilman Peterson asked whether or not the Tree/Greenway Commission had looked at this issue relative to the number of trees required. Ms. Leni Sitnick, member of the Tree/Greenway Commission, stated that she personally had not seen the site in question. She did state, however, that City ordinances (including the landscape ordinance) exist for uniformity, equality and fairness to all.

Councilman Swicegood stated that he had spoken with several builders of major projects in the area and they felt the City is anti-growth. He felt the City needed to promote

good growth and work with the developers. He spoke in support of granting the variance regarding the additional trees.

Councilman Peterson stated he had received numerous complaints relative to problems encountered when trying to build in Asheville. He felt that business and government should work together and the need for streamlining in the Planning Department was critical. He felt the Tree/Greenway Commission should have been notified of this project and should have had an opportunity to review it.

Upon inquiry of Councilman Worley relative to the clustering of trees in some areas on the site, Mr. Green stated that the site plan made some of the trees look closer together than they actually were and there are several instances throughout the City that the trees are much closer together.

Councilwoman Field stated that there should be no problem in putting additional trees in the site if you consider the requirements for a viable tree.

Councilman Swicegood questioned why some buildings were demolished to the ground while others (Mr. Sternberg's building) were to be demolished with the provision that the concrete slab be removed.

In response to Councilman Worley's question, Mr. Green stated that a revised as-built site plan is needed in the Planning Department's files for future reference.

Vice-Mayor Ellison felt that minor problems of this nature (variance of a minor number of trees) should be ironed out before it reaches the City Council. He wholeheartedly supported enforcement of City ordinances, but also felt the need for flexibility.

Councilman Moore stressed the City's need to require conformation to reasonable rules and regulations regarding development. He believed the City's ability to enforce regulations is paramount to the future of the community.

Upon inquiry of Councilwoman Field on why Mr. Sternberg will not plant the six additional trees, Mr. Slosman said the trees that are already planted there grew too large. He said the cost of the 6 additional trees is not an issue.

Councilwoman Field suggested some other type of landscaping at the entrance, i.e. lower plantings or flowers. Mr. Green said he would be happy to work with the developer on this issue.

Mr. Jerry Sternberg gave a brief history of the problems he encountered when he was trying to get his building permit and the series of inspections he had to obtain. He feels that he is entitled to a Certificate of Occupancy now without having to plant any additional trees or submit a revised, as-built, site plan. He said having to submit a revised, as-built, site plan would cost him an additional $1,500 for an engineer, surveyor and architect and he felt the need for such a site plan was unnecessary. He asked the Council to either issue him a Certificate of Occupancy for his building or he intended to move his tenant out (ITCO Tire Co.) and demolish the building. He said that his estimate to demolish the building and remove the concrete slab would run approximately $250,000-$300,000.

Upon inquiry of Vice-Mayor Ellison on why the developer did not follow the original site plan approved, Mr. Sternberg stated that at the time the building was being built, they did not know who the tenant would be. Therefore, minor changes were made - without obtaining prior approval. He did state, however, that they followed the original plans for the entire building and structure, but not the landscape plan and the moving of the parking lot.

Mr. Ben Slosman, developer, spoke in favor of the City issuing Mr. Sternberg a Certificate of Occupancy. He felt the building was over-inspected and the trees already planted were a hazard for tractors and trailers coming in and out from the road and felt no more trees were needed in that area. Mr. Slosman felt that the City should have a better attitude and use common sense in dealing with developers and not make building in the City such a hostile affair.

Upon inquiry of Councilwoman Field, Mr. Sternberg stated that the estimate he obtained to demolish his building was reached by spending $39.00 a ton to dump in the Buncombe County landfill.

Councilwoman Field asked if the Planning Department would accept a marked-up copy of the already approved site plan as the revised, as-built, site plan. Mr. Green stated that they would, but it would have to be verified on the site to make sure everything was accurate. Councilwoman Field offered her services, free of charge, to Mr. Sternberg to redraw the minor changes.

Ms. Leni Sitnick, member of the Tree/Greenway Commission, stated that if Council compromises on leaving six trees off on various projects, Asheville will not be Cool and Green Asheville any longer. She did state,

however, that the location of the project (on the river) is a very important factor, especially when Asheville is trying to improve the appearance of the riverfront. She stressed the Council to use the expertise of the members of the Tree/Greenway Commission. She presented each Council member with a book entitled "Green City Program."

Mr. Jim Hughes, tenant of 274 Riverside Drive, spoke about the appearance of the building and how it enhanced the whole area. He spoke in favor of the City issuing Mr. Sternberg a Certificate of Occupancy and stated that they have been regulated to death.

Mr. Ralph Bishop hoped that the City would stop hassling Mr. Sternberg and start doing something about Mr. J. D. Plemmons, who he alleges has been running a gambling joint at 704 Riverside Drive for 20 years.

Mayor Michalove closed the public hearing at 5:25 p.m.

Councilman Swicegood moved to grant a variance for allowing the reduced number of trees (addition of no more trees). This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilman Moore and Councilwoman Field voting "no".

Vice-Mayor Ellison moved to accept the other three recommendations from the Planning and Zoning Commission:

1. The amendments to the site plan which can be approved by the Planning Director (change in location of parking area) be approved;

2. A revised, as-built site plan, showing all modifications to the approved plan, be submitted to the Planning Department;

3. The contingency regarding the width of the driveway be removed.

This motion was seconded by Councilman Worley and carried unanimously.

Vice-Mayor Ellison weighed both sides of the issue and reached a decision that he voted for the no more trees, because it didn't make sense to vote against it.

Councilman Worley hoped that the unified development ordinance will make it easier for developers to comply with the laws and hoped that the City would encourage development in the City.

Councilman Peterson stressed the need to streamline government to make it would more efficiently.

Councilman Swicegood thanked Mr. Sternberg for building in the City.

Mayor Michalove stated that the City Council will have to find a way to simplify the process for developers trying to build in the City.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. RECEIPT OF PETITION AGAINST WESTRIDGE MARKET PLACE PROPERTY SATELLITE ANNEXATION

Mayor Michalove asked that City staff investigate the satellite annexation request of Westridge Market Place property for the purpose of building an ABC Store and report back to the City Council. He stated that the action to be taken today is solely for the purpose of directing the City Clerk to investigate a petition received to annex the property.

City Attorney Slawter said that at the next meeting the City Clerk will certify the sufficiency of the petition, if appropriate, and a public hearing date will then be set.

A petition was presented to the Mayor with 1,501 names on it opposing "the satellite annexation of property ajoining (sic) Asbury Road at West Ridge Marketplace for the purpose of building and operating an ABC outlet in the Enka-Candler area. We also oppose the construction and operation of an ABC outlet anywhere outside Asheville City Limits and any satellite annexation thereof." The petition is not reproduced herein, but is kept on file in the City Clerk's Office and is incorporated herein as if set forth herein.

Councilman Worley stressed that the City is not seeking this annexation, the property owner is asking to be annexed.

B. ORDINANCE NO. 1979 - BUDGET AMENDMENT TO APPROPRIATE ADDITIONAL FUNDS TO UPGRADE LIGHTS AT BULLMAN PARK BALLFIELDS

City Manager Bean said this CIP project has been budgeted for the past two years, however, we were held up on this project because of the question as to whether or not an electrical engineer would be required to prepare the plans for this renovation or whether this could be done by in-

house staff. After the determination was made that an electrical engineer would be required, additional time was necessary to prepare, advertise, accept, and approve the contract to employ an electrical engineer for this project. Also during this time, additional renovations were discovered as being necessary to complete this project, therefore, the total cost of this project is approximately $20,000 more than had been anticipated. Fortunately, the cost for the construction of new toilet facilities at Shiloh ballfield was less than anticipated, therefore, most of the additional funds will be secured from this account. When this project is completed, this will provide the complete new lighting system for Bullman Park in East Asheville with underground wiring, metal halide fixtures and new switching devices which were necessary because of public safety.

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1979. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1979 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 106

V. CONSENT:

A. RESOLUTION NO. 92-92 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION - PROJECT NO. 9-9584894

Summary: This resolution will modify the amount of the State grant for Phase II Baggage Claim/Rental Car/Second Floor Administrative Office Addition at the Asheville Regional Airport from $701,967 to $1,001,967 and extend the time of completion of the State grant from January 1, 1993, to January 1, 1994.

RESOLUTION BOOK NO. 19 AT PAGE 219

B. RESOLUTION NO. 92-93 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE IMPROVEMENTS OF NC 63 (LEICESTER HIGHWAY) FROM THE ASHEVILLE CITY LIMITS TO SR 1004 (NEWFOUND ROAD) IN GEORGETOWN

Summary: The North Carolina Department of Transportation (NC DOT) has prepared and adopted plans to make certain street and highway constructions and improvements within the City under Project U-2000, for the relocation and adjustment of NC 63 (Leicester Highway) from the Asheville city limits to SR 1004 (Newfound Road) in Georgetown. NC DOT's construction contractor will perform the utility work and the City will give full reimbursement for the costs.

RESOLUTION BOOK NO. 19 - PAGE 221

C. RESOLUTION NO. 92-94 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE TITLE VI STANDARD ASSURANCES AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION

Summary: The City of Asheville must assure the Federal Transit Administration that it will comply with the Title VI Civil Rights Act of 1964 and not discriminate against minority communities on the level and quality of transportation services and transit related benefits provided. The City assures that it will provide the appropriate language in all solicitations for work, bid specifications, leases, and contracts that will allow minority business enterprises full opportunity to submit bids for work and will not discriminate based on race, color and national origin.

RESOLUTION BOOK NO. 19 - PAGE 222

D. RESOLUTION NO. 92-95 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING FOR CONTINUING, COOPERATIVE AND COMPREHENSIVE TRANSPORTATION PLANNING

Summary: The Memorandum of Understanding is an agreement between the units of local government and the State which sets forth the responsibilities and working arrangements for maintaining a comprehensive transportation planning process. The Memorandum is required by the Federal Highways Administration as the agreement that creates the Metropolitan Planning Organization.

RESOLUTION BOOK NO. 19 - PAGE 223

E. RESOLUTION NO. 92-96 - RESOLUTION AUTHORIZING THE SALE OF A USED VEHICLE TO THE COUNTY OF BUNCOMBE

Summary: The City presently owns a 1986 Ford pickup truck which has been previously used by the City's animal control officers, and the County of Buncombe has need of this vehicle.

RESOLUTION BOOK NO. 19 - PAGE 224

F. RESOLUTION NO. 92-97 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION FOR UPGRADE OF BALLFIELD LIGHTS AT BULLMAN PARK

Summary: The bids for upgrading the lights at Bullman Park Ballfield were higher than anticipated because of the need to employ an electrical engineer for design purposes and because of the need to replace more of the existing system than was at first anticipated. However, this will complete this project and change the three ballfields at this site from incandescent lighting system to metal halide fixtures which will give more light while reducing the operating costs.

RESOLUTION BOOK NO. 19 - PAGE 225

G. RESOLUTION NO. 92-98 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. 19-23 KNOWN AS THE WESTRIDGE MARKET PLACE PROPERTY

Summary: The City of Asheville has received a petition from owners of Westridge Market Place Associates requesting annexation of a noncontiguous area known as Westridge Market Place on U.S. Highway 19-23.

RESOLUTION BOOK NO. 19 - PAGE 226

H. MOTION SETTING A PUBLIC HEARING ON AUGUST 25, 1992, RELATIVE TO A PARTIAL REZONING OF 8 CLAIRMONT AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT, EXCEPT FOR A 10 FOOT STRIP TO REMAIN R-3 RESIDENTIAL DISTRICT WHICH STRIP RUNS PARALLEL WITH THE SOUTHERN PROPERTY LINE OF THE LOT.

I. MOTION SETTING A PUBLIC HEARING ON JULY 28, 1992, RELATIVE TO REZONING PROPERTIES ON REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

J. BIDS RELATIVE TO NEW WATER METERS

Summary: Award of contract to purchase 6,240 each 5/8 inch water meters at $20.43 each with trade-in allowance for 6,240 each old 5/8 inch water meters at ($4.00) each and to purchase 200 each one-inch water meters at $53.00 each with

trade-in allowance for 200 each old 5/8 inch water meters at ($9.00) each to low bidder, Schlumberger Industries Inc., Atlanta, Georgia, in the net amount of $111,323.20. A copy of the complete bid summary is attached hereto as Exhibit "A".

Upon motion of Vice-Mayor Ellison, seconded by Councilwoman Field, the consent agenda was unanimously adopted.

VI. OTHER BUSINESS:

A. REQUEST FOR SIDEWALKS ON HENDERSONVILLE ROAD

City Manager Bean stated that the City had received a request for the City Council to ask the North Carolina Department of Transportation to install sidewalks on a specific portion of the Hendersonville Road Project. He stated that it would cost the City approximately $180,000 to install the new sidewalks. He said that a municipal agreement would have to be signed and the City would be responsible for the full cost. He did state, however, that the City could make a special plea to the Highway Commissioner to see if they have any additional State funds, that would be over and above normal appropriations for this project, that could be used to install new sidewalks.

Upon the consensus of Council, the Mayor was authorized to make contact to the State and ask if they have any discretionary money to be used for the new sidewalks. He was also asked to work with Councilwoman Field since she is on a task force that deals with this type of matter.

B. CITY COUNCIL MEETINGS

Mayor Michalove announced that beginning July 28, 1992, the City Council meetings would be held in the City Hall Building, 2nd Floor, Council Chamber.

C. ASHEVILLE TRANSIT AUTHORITY BUS SHELTERS

Mayor Michalove thanked Councilman Peterson for the work he has done with the Asheville Transit Authority on the bus shelter issue.

D. WESTRIDGE MARKET PLACE SATELLITE ANNEXATION

Mr. W. V. Henry, 98 Starnes Cove Road, spoke against the Westridge Market Place satellite annexation for an ABC outlet.

E. LENI SITNICK COMMENTS

Ms. Leni Sitnick asked the City Council to consider appointing Jane Gianvito Mathews to the Planning and Zoning Commission.

She also asked the City Council to utilize the Tree/Greenway Commission to its advantage.

She questioned why the trees were not planted in front of the stamp and sign shop on Biltmore Avenue. Assistant City Manager Charles Penny stated that the sidewalks in that area are only temporary and when the permanent sidewalks are installed, the trees would be planted.

F. WAYNE WARREN - RETIRED POLICE OFFICER

Mr. Wayne Warren, retired police officer, asked the City Council to adopt a resolution to end the practice of taking the State pay raise out of the City's check.

Mayor Michalove instructed the City Manager to prepare a report for Council's review including the number of officers involved and the amount of money involved.

G. RALPH BISHOP

Mr. Ralph Bishop agreed that City government needs to be streamlined and asked that the City Council investigate the gambling operations taking place by Mr. J D. Plemmons at 704 Riverside Drive.

H. CLAIMS

City Manager Bean said that the City of Asheville received the following claim for the week of June 22 - June 26, 1992: Linda McGowan (Streets).

He also said that the City received the following claims for the week of June 29 - July 3, 1992: Bill Chase (Water); Young's Sheet Metal (Water); and Elaine Collins (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:15 p.m.

William J. Valentine
CITY CLERK

H. M. Michalove
MAYOR

BID SUMMARY
BID REQUEST NO. 400-92

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, JUNE 30, 1992 3:00 P.M.

NEW WATER METERS CONSISTING OF 6,240 FIVE-EIGHTHS (5/8) INCH AND 200 ONE (1) INCH LESS TRADE-IN FOR EQUAL QUANTITIES OF DISCARDED/SCRAPED FIVE-EIGHTHS (5/8) INCH AND ONE (1) INCH WATER METERS

ITEM NO.	SCHLUMBERGER INDUSTRIES ICN. ATLANTA, GA.	CAROLINA METER & SUPPLY, INC. WOODRUFF, S.C.	KENT METERS INC. OCALA, FLA.	SENSUS TECHNOLOGIES INC. UNIONTOWN, PA.
1-A 6240 5/8" Water Meters	$20.43 ea. $127,483.20	$23,76 ea. $148,262.40	$26.70 ea. $166,608.00	$28.15 ea. $175,656.00
1-B (6240) Trade-In 5/8" Meters	($4.00) ea. ($24,960.00)	($3.00) ea. ($18,720.00)	($3.00) ea. ($18,720.00)	($3.00) ea. ($18,720.00)
TOTAL ITEMS 1 A and 1 B (NET)	$102,523.20	$129,542.40	$147,888.00	$156,936.00
2-A 200 1" Water Meters	$53.00 ea. $10,600.00	$70.17 ea. $14,034.00	$68.72 ea. $13,744.00	$71.51 ea. $14,302.00
2-B (200) Trade-In 1" Meters	($9.00) ea. ($1,800.00)	($7.50) ea. ($1,500.00)	($8.00) ea. ($1,600.00)	($6.00) ea. ($1,200.00)
TOTAL ITEMS 2 A and 2 B (NET)	$8,800.00	$12,534.00	$12,144.00	$13,102.00
TOTAL NET BID	$111,323.20	$142,076.40	$160,032.00	$170,038.00
METER BID	Neptune T-10	Badger Recordall Bronze 5/8" Model 25 1" Model 70	Kent C-700	Sensus SR II
TERMS	Net 30	Net 30	Net 30	Net 30
DELIVERY	30 Days ARO	As required	30 Days	30 Days
BID DEPOSIT	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

The following company submitted a 'No Bid': Pump and Lighting, Roebuck, S. C.

Tuesday - July 28, 1992 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager Charles W. Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove and City Manager Douglas O. Bean

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Vice-Mayor Ellison announced the approval of the July 14, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-99 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ROSE GREENE

Vice-Mayor Ellison read the resolution stating that Rose Greene has been an employee for 23 years and has requested retirement from her position as Customer Service Representative II in the Finance Department. He expressed City Council's appreciation to Rose for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Councilman Worley moved for the adoption of Resolution No. 92-99. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 227

B. PROCLAMATION PROCLAIMING AUGUST 15, 1992, AS "RAISE YOUR HANDS" DAY

Vice-Mayor Ellison read the proclamation proclaiming August 15, 1992, as "Raise Your Hands" day and presented it to Mr. Fred Friedman and Ms. Barbara Bell, volunteer co-chairs for the fifth annual Western North Carolina AIDS Project auction.

Mr. Friedman explained that the auction is to raise funds to address client needs such as food, utilities, housing, transportation, insurance costs, medical bills, and other AIDS-related expenses deemed appropriate by the Project.

Ms. Bell passed out T-shirts relative to the auction to the members of Council.

C. PROCLAMATION RECOGNIZING SHINDIG ON THE GREEN'S 25TH ANNIVERSARY

Vice-Mayor Ellison read a proclamation proclaiming August 1, 1992, as "Shindig on the Green Recognition Day" and presented it to Mr. Zack Allen, Executive Director of the Folk Heritage Committee.

Mr. Allen was pleased that the City Council recognized Shindig's 25th anniversary of providing a showcase for our mountain music and dance traditions. He then presented City Council with green cups signifying Shindig's 25th anniversary.

D. PROCLAMATION PROCLAIMING THE MONTH OF AUGUST 1992 AS "WATER CONSERVATION MONTH"

Vice-Mayor Ellison read a proclamation proclaiming the month of August 1992 as "Water Conservation Month" and presented the proclamation to Mr. Charles Rector, Assistant Director of Water and Engineering.

E. OATH OF OFFICE FOR ORALENE GRAVES-SIMMONS, NEWLY APPOINTED CO-CHAIR OF THE NORTH CAROLINA MARTIN LUTHER KING JR. COMMISSION

Vice-Mayor Ellison administered the oath of office for Ms. Oralene Graves-Simmons, newly appointed Co-Chair of the North Carolina Martin Luther King Jr. Commission. Ms. Simmons has served as a member of the Martin Luther King Jr. Commission since December of 1988.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING PROPERTIES ON REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE NO. 1980 - ORDINANCE AMENDING ZONING OF FIVE PROPERTIES ON REED STREET

Vice-Mayor Ellison opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, stated that a request from Bill Burgin, representing all property owners, was received to rezone five properties on Reed Street as a result of the widening of Hendersonville Road. Due to the Hendersonville Road Project ("Project"), Quincy's has lost approximately 40 parking spaces and Servco has lost an island of gas pumps. Quincy's would like to expand their parking area to the rear of their building to meet their parking needs and Servco would like to expand their gas station/convenience store.

On June 3, 1992, the Planning and Zoning Commission ultimately tabled the request on a 4-2 vote to wait until staff completed the Hendersonville Road Corridor Study which would look comprehensively at land use and future zoning issues in that area.

On July 1, 1992, the Planning and Zoning Commission voted to grant the rezoning request, on 5-2 vote. The Commission felt the need of Quincy's and Servco to expand and continue the operation of their businesses in a profitable manner necessitated the rezoning of those areas prior to the completion of the corridor study.

The staff recommended denial of the rezoning for several reasons, some of those being - the request was not in accordance with the 2010 Plan (which shows no expansion of commercial strip development in this area); the loss of the buffer between commercial and residential neighborhoods; and the need to look at the area comprehensively.

The current ordinances do not require buffering when the commercial property abuts a public right-of-way and there is residential property on the other side. The only requirement is street trees.

Mr. Green said there were 30 notices sent out, 8 of which were in opposition to the rezoning and 4 in support of the rezoning (those 4 do not include representatives of Quincy's or Servco).

Upon inquiry of Councilwoman Field, Ms. Patty Tallerday, Senior Planner, stated that the corridor study

would not be initially completed for approximately another month. Then, approval is needed by the community, the Planning and Zoning Commission and the City Council, which will take approximately another 3 months.

When Vice-Mayor Ellison questioned the fact that this rezoning was not in accordance with the 2010 Plan, Mr. Green explained that at the time the 2010 Plan was adopted, the Biltmore Forest side of Hendersonville Road was not historic property.

Upon inquiry of Vice-Mayor Ellison, it was determined that Quincy's originally had 123 parking spaces and will lose approximately 40 of those spaces with the widening of the road. The proposed plan will increase Quincy's parking up to 160 spaces.

Ms. Barbara Melton, member of the Planning and Zoning Commission, stated her reasons for voting against the rezoning was that the corridor study was needed, that the area would not be buffered properly and that the residential neighborhood needed protection against commercial development.

Upon inquiry of Vice-Mayor Ellison on whether the City Council could attach stipulations to the approval of the rezoning request, City Attorney Slawter stated that the Council could not.

Mr. Winston Pulliam, member of the Planning and Zoning Commission, stated that some of his reasons for voting for the rezoning were that Quincy's would be losing 44 parking spaces; that two of the houses on Reed Street are in very bad shape and they have an opportunity to sell their houses to Quincy's; and that the buffering that Quincy's and Servco will provide is a lot better than what they have now.

Mr. Bill Burgin, representative for the property owners requesting the rezoning, said that he has made contact with all the property owners involved and that all of them would prefer to look at a nice parking lot instead of some of the houses that are there now. He said that Quincy's is willing to put a tree buffer a few feet off the property line and have a hedge row the complete length of Reed Street with no curb cuts. He stated that it would be hard for Quincy's to continue in operation if they had to wait another 3 to 4 months until the corridor study was completed.

Upon inquiry of Councilman Peterson, Mr. Burgin stated that they have not contacted the Tree/Greenway Commission

about the planting of the tree buffer, but would be happy to do so. Councilman Peterson asked to be notified when they do meet with the Tree/Greenway Commission because he would be interested in attending the meeting.

Councilman Worley asked what the effect would be had if the rezoning were granted except for the last 10 feet along Reed Street, which would be left residential. He explained that since Council cannot put conditions on a rezoning and that buffering could not be required, he felt that some enforcement should be required. Council could then enforce no curb cuts along Reed Street and have a little bit of control over the buffering.

Mr. Burgin stated that leaving that last 10 feet along Reed Street residential would result in Quincy's losing approximately 25 parking spaces.

City Attorney Slawter, when questioned by Councilman Worley, said that the City Council did have the authority to rezone all or a part of the rezoning request, but could not rezone beyond the area for which public notice was given.

Upon inquiry of Councilman Peterson, City Attorney Slawter explained that an agreement could be drawn up between the City and Quincy's, but under the law it would be an invalid agreement, termed contract zoning. He explained that North Carolina law does not allow the concept of contract zoning. He said if the property is rezoned, it has to be allowed in accordance with the zoning ordinance as it stands. He said specific conditions cannot be imposed upon one individual property owner under the zoning ordinance that are not imposed upon other property owners.

By use of a map, Councilman Moore asked Mr. Burgin to show the houses which were rented on the west side of Reed Street. Mr. Burgin stated that he contacted all the owners and one renter in the duplex.

Mr. Robert Gresham, Vice-President of Servco, stated that they are asking for this rezoning because when Hendersonville Road widened, it took 40 feet of their property. He said with all the changes required by the State, large expenditures will have to be made to meet requirements and they cannot afford these expenditures with the property as it is today.

Upon inquiry of Councilman Moore, Vice-Mayor Ellison stated that any property owner who was involved with the widening of Hendersonville Road was compensated in some form by the State.

Mr. Shawn Keenan, representative of Quincy's, spoke about Quincy's integrity and stated that if they agreed to put up a buffer, they would indeed put the buffering in.

Ms. Marge Turcot, owner of Reed House Bed and Breakfast at 119 Dodge Street, spoke against the rezoning stating that the City will be losing several units of affordable housing, there will be additional heat from the paving, there will be a loss of trees and greenery, there will be additional fumes from traffic on Hendersonville Road and feels that anyone can build anything in an area zoned Commercial Highway.

Ms. Leni Sitnick, asked the Council to consider this rezoning request because there will be others who ask to be rezoned that will not have vacant property behind them.

Vice-Mayor Ellison closed the public hearing at 5:32 p.m.

Councilman Worley moved to approve the rezoning request, except for a 10 foot strip along Reed Street. He hoped that a variance could be granted in the event that setback requirements are deemed to run from the zoning line rather than the property line. Councilman Moore seconded this motion.

On a roll call vote of 3-3, with Councilman Worley, Councilman Moore and Councilwoman Field voting "aye" and Councilman Peterson, Councilman Swicegood and Vice-Mayor Ellison voting "no", the motion failed.

Councilman Swicegood moved to approve the rezoning of all five properties on Reed Street as requested by the property owners. This motion was seconded by Councilman Peterson.

On a roll call vote of 4-2, with Councilman Moore and Councilwoman Field voting "no", the motion carried.

Councilman Peterson moved to suspend the rules and proceed to the second reading of Ordinance No. 1980. This motion was seconded by Councilman Swicegood. On a vote of 3-3, with Vice-Mayor Ellison, Councilman Peterson and Councilman Swicegood voting "aye" and Councilwoman Field, Councilman Moore and Councilman Worley voting "no", the motion was defeated.

Councilman Moore asked that since he will not be at the next City Council meeting (August 11, 1992) when the second reading of this ordinance would be had, he requested that the second reading be postponed until August 18, 1992, at the City Council retreat. The City Council agreed to this postponement.

III. OLD BUSINESS: NONE

IV. NEW BUSINESS:

A. PLAT APPROVAL FOR MANN ROAD SUBDIVISION

Mr. Tony Nicholson, Urban Planner, stated that the Planning and Zoning Commission, at their July 1, 1992, meeting reviewed and recommended approval of the preliminary plat. The Mann Road subdivision is located north of the Haw Creek area at 27 Mann Road. The request is to subdivide a 2.55 acre tract into two (2) lots (1 lot at 2 acres and 1 lot at .55 acres). The site and all adjacent properties lie within the R-2 Residential zoning district. The site, which contains an existing house on the proposed 2 acre lot, is moderately sloping downward to the south. Both lots will be accessed by an existing driveway which passes through the smaller lot into the larger lot. Upon your approval, this existing driveway will become a deeded right-of-way to the larger lot.

He said the proposed subdivision meets the requirements of the Asheville Zoning Ordinance and the Subdivision Regulations. In addition, all utilities and the Fire Department have approved availability of services to the site.

Councilman Moore moved to approve the plat for Mann Road Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. DOWNTOWN PARKING REGULATIONS

Councilman Swicegood said that he and Councilman Peterson met with others and toured the downtown area in order to review the downtown parking situation. It is their recommendation to:

1. Install new parking meters in three parking lots which currently have the old meters or are unmetered;

2. Install parking meters around the Grove Arcade where there is currently free parking;

3. Increase the fine for overtime parking to $5.00 for the first offense and $8.00 for additional offenses; and

4. Review the penalty for late payment sometime in the future after the new parking collections system has had an opportunity to operate.

Councilwoman Field supported the installation of approximately 135 parking meters around the Grove Arcade, but suggested that in 2-3 years (when the Grove Arcade may be changing hands), that the City take another look at the parking meters in this area.

Councilman Peterson felt that the parking meters should remain there regardless of who might be purchasing the building.

Vice-Mayor Ellison asked that the parking lot at the Employment Security Commission not be metered and remain as is because he felt that some consideration should be given to the unemployed.

It was the consensus of Council that these recommendations be officially received and they instructed the City Attorney to prepare an ordinance taking into account the recommendations.

THE FOLLOWING ITEM WAS ON THE CONSENT AGENDA, BUT AT THE REQUEST OF ASSISTANT CITY MANAGER PENNY, IT WAS PLACED ON THE REGULAR AGENDA.

C. PRESENTATION OF THE TRANSITION PLAN FOR AMERICANS WITH DISABILITIES ACT FOR THE CITY OF ASHEVILLE

Mr. Ray Kisiah, Director of Parks, Recreation and Public Facilities, said the Americans with Disabilities Act of 1990 (ADA) protects individuals with disabilities. The ADA requires equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications.

He said under Subtitle A, Title II of the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of City services, programs or activities, or be subjected to discrimination by the City. City services, programs and activities, when viewed as a whole, are required to be accessible to qualified persons with disabilities, and communications with persons with disabilities are to be as effective as communications with others.

He said the City has appointed him as the ADA Coordinator and an ADA Advisory Board of persons with disabilities and/or agencies that represent those with disabilities. This Advisory Board has now met on three

occasions and public hearings have been held on a draft Transition Plan which would remove architectural barriers from all City buildings and facilities. An ADA Committee has been appointed of Al Kopf, Landscape Architect; Martha McGlohon, Staff Attorney; Pam McGrayne, Personnel Director; Lyle Willis, Construction Manager; Carl Owenby, Transit Planner; and me, ADA Coordinator. This committee has prepared a Transition Plan by which architectural barriers would be removed, using the draft plan and comments received from members of the Advisory Board and the general public. This plan is being presented to City Council with the understanding that there will be further amendments necessary based on comments and recommendations from the ADA Advisory Board and actual experience. A copy of this Transition Plan will be kept on file in the Office of the City Clerk as well as in the Parks, Recreation and Public Facilities Department as part of the official documents satisfying the requirements of the Americans With Disabilities Act.

He said this project (approximately $600,000) will be phased in over a three-year period with those improvements requiring the least expenditures to be implemented during the first year. Funding will be provided through the Capital Improvement Program and the annual budget process.

Councilman Peterson requested a breakdown of the $600,000 for each of the 62 buildings which the City owns. Mr. Kisiah stated that when the budget amendment comes through to start appropriately this money for these improvements, a breakdown would be included.

When a question arose concerning the Pack Plaza and Pack Place buildings, City Attorney Slawter said that any building in which the City provides public services and programs has to be accessible under ADA.

Vice-Mayor Ellison hoped that the City Manager would send a letter to Pack Plaza to be sure that they are aware of ADA requirements and that they plan to make the improvements, if any are required.

V. CONSENT AGENDA:

A. CERTIFICATION OF THE PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. 19-23 KNOWN AS THE WESTRIDGE MARKET PLACE PROPERTY

RESOLUTION NO. 92-100 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED AT U.S. HIGHWAY 19-23 PURSUANT TO N. C. GEN. STAT. SEC. 160A-58.2 (PORTION OF WESTRIDGE MARKET PLACE) FOR AUGUST 11, 1992

Summary: N. C. Gen. Stat. sec. 160A-58.2 requires that upon the certification of the sufficiency of a petition for noncontiguous annexation, the City Council shall fix a date for a public hearing on the annexation. Certification by the City Clerk as to the sufficiency of said petition has been made. The property to be considered for annexation is located on U.S. Highway 19-23 and is a portion of the Westridge Market Place.

RESOLUTION BOOK NO. 19 AT PAGE 228

B. **RESOLUTION NO. 92-101 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. HIGHWAY 25 KNOWN AS THE ROBERT LEWIS PROPERTY**

Summary: The City of Asheville has received a petition from Mr. Robert Lewis requesting annexation of a noncontiguous area known as the Sports Page Restaurant and Bar on U.S. Highway 25.

RESOLUTION BOOK NO. 19 AT PAGE 230

C. **RESOLUTION NO. 92-102 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS BEAVERDAM AREA ANNEXATION - CONTRACT ONE (EIGHT INCH SEWER LINE PROJECT)**

Summary: This project involves the installation of approximately 8,400 linear feet of 8" sanitary sewer pipe, 1,500 linear feet of 4" sanitary sewer pipe, 58 manholes and related sewer appurtenances. Sealed bids were opened on July 9, 1992, with Wheeler Construction Company, Inc., being the low bidder at $362,470. Although the Engineering's estimate was $382,302, it is felt that this is a fair bid and it is recommended that a contract be awarded. A complete copy of the bid summary is attached hereto as Exhibit "A" and made a part hereof.

RESOLUTION BOOK NO. 19 AT PAGE 231

D. **RESOLUTION NO. 92-103 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT WITH CAROLINA POWER & LIGHT COMPANY RELATIVE TO THE FEDERAL AVIATION ADMINISTRATION INSTALLING A NEW AIR SURVEILLANCE RADAR AT THE ASHEVILLE REGIONAL AIRPORT**

Summary: The FAA will be installing a new surveillance radar at the Asheville Airport and the site will require a new three phase primary line and transformer bank extension across the access road to the radar site. The new facility will be served underground from the proposed transformer bank.

RESOLUTION BOOK NO. 19 AT PAGE 232

E. **RESOLUTION NO. 92-104 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CERTAIN ASSURANCES AND CERTIFICATIONS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION FOR GRANT SUBMISSION**

Summary: The Federal Transit Administration ("FTA") requires annual submission of certain assurances and certifications with respect to grants and grant amendments. Since the City of Asheville has not filed its annual operating assistance grant and has a capital request for shelters and benches with the NC DOT grant project (Section 3), certain assurances and certifications must be submitted to be in compliance with the FTA Act.

RESOLUTION BOOK NO. 19 AT PAGE 233

Councilman Worley moved for the approval of the Consent Agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 92-105 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR PROPERTY AT THE ASHEVILLE AIRPORT**

Assistant City Manager Penny said that an easement is needed by Carolina Power & Light Company to serve the J & S Cafeteria at the Asheville Airport. He said the electric line for said easement will be placed underground.

Vice-Mayor Ellison said that members of Council have been furnished with copies of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-105. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 234

B. MOTION AUTHORIZING THE MAYOR TO SIGN AMENDMENT NO. 5 TO THE COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Assistant City Manager Penny said that the Executive Director of the Housing Authority of the City of Asheville, Mr. David Jones, has requested that the City sign Amendment No. 5 to the Cooperation Agreement. This amendment will modify the Agreement to cover an additional 210 low-income housing units. The figure in the agreement will be changed from "1,421" to "1,631".

Councilwoman Field moved to authorize the Mayor to sign Amendment No. 5 to the Cooperation Agreement by and between the City of Asheville and the Housing Authority of the City of Asheville. This motion was seconded by Councilman Moore and carried unanimously.

C. REPORT ON TAX FORECLOSURE SALE OF 10 SUNSET SUMMIT

City Attorney Slawter reported that the tax foreclosure of 10 Sunset Summit took place today at the Buncombe County Courthouse steps. He said that the property was sold to the highest bidder, Mr. Harvey Heywood (neighbor) for $8,100. Mr. Slawter said that if the County does not receive an upset bid within the next ten days, Mr. Heywood will be the owner of the house.

D. FRANK WORLEY - DIRECTOR OF THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Ellison recognized Mr. Frank Worley, new Director of the Alcoholic Beverage Control Board.

At this time, approximately 6:20 p.m., it was the consensus of the City Council to take a five minute break.

E. PETITION AND LETTERS PRESENTED IN OPPOSITION OF SATELLITE ANNEXATION OF WESTRIDGE MARKET PLACE PROPERTY

Mr. Frank Griffin, who resides in the Enka-Candler community, presented the City Council with 408 letters opposed to the satellite annexation of Westridge Market

Place for the purpose of building an ABC store. He also presented the Council with another petition containing 91 more signatures (to be placed with prior petition presented which contained 1,501 signatures) opposing this satellite annexation. He said that he is in possession of an additional 200 more letters opposed to the annexation and will copy them and present them to the Council.

F. STATEMENTS BY MITTY OWENS AND JOE WEBSTER RELATIVE TO DISCRIMINATION

Mr. Mitty Owens read the following statement dated July 27, 1992:

As you are probably all aware, last week I was beaten up by members of a violent, racist gang called the "Skinheads."

While this incident was by no means my first exposure to discrimination, it was the first time I found myself to be the recipient of racist violence. I was born and raised in New York City; I've lived and travelled in various states of this country and various countries in the world; and yet never have I had such an encounter. Nor did I expect it to happen here, coming on the eve of my one year anniversary in Asheville, a city which I've very much enjoyed, .

I do not consider this act to be representative of this community, or even of the white members of this community, as evidenced by the large numbers and the diversity of people who attended the rally at my house the following day. Various facts indicate however that various hate groups, and key supporting individuals, have recently turned much of their attention to this area.

Most of you are probably aware of Skinhead recruitment in the schools and the rally they proposed to have last January. And there appears to be an increase in neo-Nazi and Klan activity in the surrounding area, details of which can be provided by Monroe Gilmore and Attorney Bob Warren in Black Mountain.
It is because of this pattern, and not simply the single attack upon me, that I am asking that you give this issue your serious attention.

At the same time, we must return our focus to the institutional racism and discrimination which still permeates our country and yes, our very own community. The statistics regarding school failures and drop-outs, illiteracy, unemployment, arrests and convictions, infant mortality, AIDS, mortgage and commercial loan rejections, etc. continue to be disproportionately high among African-Americans and other People of Color. While Asheville may not be any worse than other parts of the state or country in some of these areas, should we not strive to be the leader in narrowing the gap, in addressing this country's greatest dilemma--"the color line"--which festers on into the 21st century?

Lastly, I do not intend to make the police department the source of my anger in addressing my particular situation. I must however make it known to you that if it were up to the police officer on the scene, there would still be no documented incident of Skinhead violence in Asheville. There is no exaggeration when I say that I had to convince the officer to walk up to the house to question two of the individuals involved whom I knew resided there. Following the questioning, the officer stated, "Well, what do you want me to do? The guys are gone and all I have is a first name and no address. I suggest you call us if you see them again." It is quite clear to me that he did not intend to fill out a report.

Again, I note this not to make the police the focus of this case but to highlight for you the dire need for sensitivity training and a review of procedures particularly in regards to the handling of hate crimes.

Thank you for your time. I, like many other concerned individuals in this community, look forward to working with you on these issues and helping to make Asheville a more hospitable place for all people.

Sincerely,

Mitty Owens

Millard "Mitty" Owens
19 Arlington St.
Asheville, NC 28801
257-4540 work

Mr. Joe Webster, Co-Chair of PRIDE, read the following statement dated July 28, 1992:

We are here today representing PRIDE, People Recognizing Individuality, Diversity and Dignity for Everyone. PRIDE members represent a broad cross-section of citizens and organizations in our community who have come together out of concern and a high level of frustration that, in our country and community, opportunity is not equally open to all. Some of us, simply because of our race, gender, religion, or sexual preference, must live under the constant threat of violence.

In Asheville we are concerned particularly with:

The lack of a comprehensive anti-discrimination ordinance

The inadequacy of police sensitivity training and monitoring of hate crimes

The presence of institutional discrimination in our city and county governments, civil service jobs, and schools

The absence of a multicultural curriculum in our public school system to enhance understanding and tolerance of others

The apparent decision by prominent hate-group leaders to make this area a recruitment and training center

PRIDE members are educating ourselves and are developing strategies to help our community become a strong supportive environment for all of our citizens. In response to last week's hate crime, PRIDE held a special meeting Sunday night at which people recommitted themselves to opposing such acts of violence as well as combating institutional discrimination. Most present recommitted themselves to working actively to helping the city and county find concrete solutions to these problems.

PRIDE will be meeting next Monday evening at 6:30 PM in the Board Room of the Asheville Housing Authority. We meet every third Monday and would welcome your thoughts and suggestions on these critical issues.

In the near future we will seek a place on the agenda to explain more thoroughly our concerns and plans and to hear your ideas.

On behalf of the City Council, Vice-Mayor expressed his sympathy for the experience Mr. Owens encountered. He stated the City Council would be talking about ways to help curb this type violence at the Council's mid-year retreat on August 18, 1992. He urged Mr. Webster to attend the next Citizens/Police Advisory Committee meeting and make a presentation relative to this issue. He suggested Mr. Webster talk to the Chief of Police and find out when the next meeting will be held.

Police Chief Gerald Beavers assured the City Council that programs are on-going in the Police Department relative to police sensitivity.

Upon inquiry of Councilman Peterson, Chief Beavers stated that an arrest in this particular incident was made.

G. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick spoke about several issues, those being: acoustics in Council Chamber was bad; asked the City Council not hold their meetings on the same day and time as the Buncombe County Board of Commissioners; commended the City, County and Water Authority for their water conservation efforts; and commended City for their recycling efforts.

H. CLAIMS

Assistant City Manager Penny stated that the following claims were received by the City during the week of July 6-10, 1992: Edith J. Hapke (Water), Bernhard Gordon (Water), Cooper Travel (Water), Asheville Learning (Water), Southern Bell (Water) and Joyce Woodby (Parks).

He also said the following claims were received by the City during the week of July 20-24, 1992: Kyoto's (Water), Debbie Rice (Water), Josette Mills (Streets), Jean Rice (Water), Addie Jones (Streets), Daniel Loudy (Streets) and Paul Maddox (Streets).

He stated that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 6:45 p.m.

William D. Holcomb
CITY CLERK

H. M. Nicholson
MAYOR

PROJECT NUMBER SC-91-003
CONTRACT NUMBER B-355
BID OPENING DATE THURSDAY, JULY 9, 1992 AT 10:00 A.M.

ITEM DESCRIPTION	ESTIMATED QUANITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	WHEELER CONST. CO. WEAVERVILLE, NC LIC NO 14910 UNIT PRICE	WHEELER CONST. CO. EXTENDED TOTAL	DILLARD EXCAVATING CO. SYLVA, NC LIC NO 08893 UNIT PRICE	DILLARD EXCAVATING CO. EXTENDED TOTAL	BUCKEYE CONST. CO. CANTON, NC LIC NO 23096 UNIT PRICE	BUCKEYE CONST. CO. EXTENDED TOTAL
1. MOBILIZATION	LUMP	SUM	$5,000.00	$5,000.00	$4,000.00	$4,000.00	$11,000.00	$11,000.00	$19,400.00	$19,400.00
2. SANITARY SEWERS										
A. 8-IN DUCTILE IRON CLASS 50 SAN. SEWER PIPE & BEDDING	248	L.F.	$24.00	$5,952.00	$20.00	$4,960.00	$33.00	$8,184.00	$25.00	$6,200.00
B. 8-IN SEWER PIPE AND BEDDING	8,130	L.F.	$17.00	$138,210.00	$17.00	$138,210.00	$19.80	$160,974.00	$20.00	$162,600.00
C. 4-IN SEWER PIPE AND BEDDING	1,460	L.F.	$10.00	$14,600.00	$10.00	$14,600.00	$13.20	$19,272.00	$10.00	$14,600.00
3. SANITARY SEWER PRECAST CONCRETE MANHOLES										
A. 4-FOOT DIA. STANDARD PRECAST CONCRETE	61	EA.	$1,000.00	$61,000.00	$1,000.00	$61,000.00	$1,045.00	$63,745.00	$1,070.00	$65,270.00
B. 4-FOOT DIA. STANDARD PRECAST CONCRETE EXTRA DEPTH	14	V.F.	$100.00	$1,400.00	$80.00	$1,120.00	$99.00	$1,386.00	$100.00	$1,400.00
4. TIE-IN EXISTING/PROPOSED SEWERS/LATERALS TO NEW MANHOLES:										
A. CONNECTION OF EXISTING OR PROPOSED 4-IN OR 6-IN SEWER LATERALS TO NEW MANHOLES (COMPLETE)	32	EA.	$180.00	$5,760.00	$200.00	$6,400.00	$198.00	$6,336.00	$100.00	$3,200.00
SUB-TOTAL 1				$231,922.00		$230,290.00		$270,897.00		$272,670.00

EXHIBIT "A"

BEAVERDAM AREA ANNEXATION - CONTRACT I EIGHT INCH SEWER LINE
PROJECT NUMBER SC-91-003
CONTRACT NUMBER E-355
BID OPENING DATE THRUSDAY, JULY 9, 1992 AT 10:00 A.M.

					WHEELER CONST. CO.		DILLARD EXCAVATING CO.		BUCKEYE CONST. CO.		
					WEAVERVILLE, NC		SYLVA, NC		CANTON, NC		
					LIC NO 14910		LIC NO 08893		LIC NO 23096		
ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
	B. LATERAL SERVICE CONNECTION TO NEW SANITARY SEWER PIPE (COMPLETE)	56	EA.	$120.00	$6,720.00	$200.00	$11,200.00	$77.00	$4,312.00	$100.00	$5,600.00
5.	4-IN CLEANOUTS (COMPLETE)	84	EA.	$75.00	$6,300.00	$100.00	$8,400.00	$66.00	$5,544.00	$100.00	$8,400.00
6.	PAVEMENT REPAIRS: (SEWER LINE ONLY)										
	A. AGGREGATE BASE COURSE	1,310	TON	$8.00	$10,480.00	$10.00	$13,100.00	$7.70	$10,087.00	$10.00	$13,100.00
	B. BIT. CONCRETE BASE COURSE (TYPE HB)	540	TON	$50.00	$27,000.00	$48.00	$25,920.00	$44.00	$23,760.00	$60.00	$32,400.00
	C. BIT. CONCRETE SURFACE COURSE (TYPE I-2)	1,120	TON	$60.00	$67,200.00	$48.00	$53,760.00	$41.80	$46,816.00	$45.00	$50,400.00
7.	8-IN THICK PLAIN 3000 PSI CONCRETE FOR DRIVEWAY REPAIR	14	SY	$130.00	$1,820.00	$20.00	$280.00	$33.00	$462.00	$38.00	$532.00
8.	EXTRA PIPE BEDDING	235	TON	$12.00	$2,820.00	$12.00	$2,820.00	$11.00	$2,585.00	$14.00	$3,290.00
9.	ROCK EXCAVATION AND SELECT BACKFILL	250	CY	$60.00	$15,000.00	$40.00	$10,000.00	$132.00	$33,000.00	$55.00	$13,750.00
10.	SELECT BACKFILL	500	CY	$10.00	$5,000.00	$5.00	$2,500.00	$8.80	$4,400.00	$10.00	$5,000.00
	SUB-TOTAL 2				$142,340.00		$127,980.00		$130,966.00		$132,472.00

BEAVERDAM AREA ANNEXATION - CONTRACT ONE EIGHT INCH SEWER LINE
PROJECT NUMBER SC-91-003
CONTRACT NUMBER B-355
BID OPENING DATE THURSDAY, JULY 9, 1992 AT 10:00 A.M.

		WHEELER CONST. CO.		DILLARD EXCAVATING CO.		BUCKEYE CONST. CO.	
		WEAVERVILLEM NC		SYLVA, NC		CANTON, NC	
		LIC NO 14910		LIC NO 08893		LIC NO 23096	

ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
11. REMOVAL & REPLACE EXIST. FENCE										
A. WOODEN FENCE	40	L.F.	$12.00	$480.00	$20.00	$800.00	$6.60	$264.00	$10.00	$400.00
B. CHAIN LINK FENCE	80	L.F.	$12.00	$960.00	$10.00	$800.00	$6.60	$528.00	$10.00	$800.00
12. DEMOLITION & REMOVAL OF EXISTING MANHOLES	3	EA.	$200.00	$600.00	$200.00	$600.00	$660.00	$1,980.00	$400.00	$1,200.00
13. SEEDING & GRASSING	LUMP	SUM	$2,000.00	$2,000.00	$1,000.00	$1,000.00	$4,180.00	$4,180.00	$3,000.00	$3,000.00
14. TRAFFIC CONTROL	LUMP	SUM	$4,000.00	$4,000.00	$1,000.00	$1,000.00	$4,400.00	$4,400.00	$5,000.00	$5,000.00
SUB-TOTAL 3				$8,040.00		$4,200.00		$11,352.00		$10,400.00
SUB-TOTAL 1				$231,922.00		$230,290.00		$270,897.00		$272,670.00
SUB-TOTAL 2				$142,340.00		$127,980.00		$130,966.00		$132,472.00
SUB-TOTAL 3				$8,040.00		$4,200.00		$11,352.00		$10,400.00
TOTAL CONTRACT PRICE				$382,302.00		$362,470.00		$413,215.00		$415,542.00

PEAVERDAM AREA ANNEXATION - CONTRACT ONE EIGHT INCH SEWER LINE

PROJECT NUMBER SC-91-003
CONTRACT NUMBER E-355
BID OPENING DATE THURSDAY, JULY 9, 1992 AT 10:00 A.M.

	STEPPE CONST. CO.	GOODWATER, INC.
	MILL SPRING, NC	GREENVILLE, SC
	LIC NO 12248	LIC NO 19340

ITEM	DESCRIPTION	ESTIMATED QUANITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
1.	MOBILIZATION	LUMP	SUM	$5,000.00	$5,000.00	$15,000.00	$15,000.00	$5,000.00	$5,000.00
2.	SANITARY SEWERS								
	A. 8-IN DUCTILE IRON CLASS 50 SAN. SEWER PIPE & BEDDING	248	L.F.	$24.00	$5,952.00	$30.00	$7,440.00	$35.00	$8,680.00
	B. 8-IN SEWER PIPE AND BEDDING	8,130	L.F.	$17.00	$138,210.00	$20.00	$162,600.00	$25.00	$203,250.00
	C. 4-IN SEWER PIPE AND BEDDING	1,460	L.F.	$10.00	$14,600.00	$10.00	$14,600.00	$8.00	$11,680.00
3.	SANITARY SEWER PRECAST CONCRETE MANHOLES								
	A. 4-FOOT DIA. STANDARD PRECAST CONCRETE	61	EA.	$1,000.00	$61,000.00	$1,100.00	$67,100.00	$700.00	$42,700.00
	B. 4-FOOT DIA. STANDARD PRECAST CONCRETE EXTRA DEPTH	14	V.F.	$100.00	$1,400.00	$80.00	$1,120.00	$200.00	$2,800.00
4.	TIE-IN EXISTING/PROPOSED SEWERS/LATERALS TO NEW MANHOLES:								
	A. CONNECTION OF EXISTING OR PROPOSED 4-IN OR 6-IN SEWER LATERALS TO NEW MANHOLES (COMPLETE)	32	EA.	$180.00	$5,760.00	$500.00	$16,000.00	$200.00	$6,400.00
	SUB-TOTAL 1				$231,922.00		$283,860.00		$280,510.00

[redacted] - CONTRACT I EIGHT INCH SEWER LINE

PROJECT NUMBER SC-91-003
CONTRACT NUMBER B-355
BID OPENING DATE THRUSDAY. JULY 9. 1992 AT 10:00 A.M.

		STEPPE CONST. CO.		GOODWATER. INC.	
		MILL SPRING. NC		GREENVILLE. SC	
		LIC NO 12248		LIC NO 19340	

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
	B. LATERAL SERVICE CONNECTION TO NEW SANITARY SEWER PIPE (COMPLETE)	56	EA.	$120.00	$6.720.00	$400.00	$22.400.00	$175.00	$9.800.00
5.	4-IN CLEANOUTS (COMPLETE)	84	EA.	$75.00	$6.300.00	$30.00	$2.520.00	$50.00	$4.200.00
6.	PAVEMENT REPAIRS: (SEWER LINE ONLY)								
	A. AGGREGATE BASE COURSE	1.310	TON	$8.00	$10.480.00	$8.00	$10.480.00	$25.00	$32.750.00
	B. BIT. CONCRETE BASE COURSE (TYPE HB)	540	TON	$50.00	$27.000.00	$60.00	$32.400.00	$60.00	$32.400.00
	C. BIT. CONCRETE SURFACE COURSE (TYPE I-2)	1.120	TON	$60.00	$67.200.00	$40.00	$44.800.00	$72.00	$80.640.00
7.	8-IN THICK PLAIN 3000 PSI CONCRETE FOR DRIVEWAY REPAIR	14	SY	$130.00	$1.820.00	$35.00	$490.00	$30.00	$420.00
8.	EXTRA PIPE BEDDING	235	TON	$12.00	$2.820.00	$14.00	$3.290.00	$15.00	$3.525.00
9.	ROCK EXCAVATION AND SELECT BACKFILL	250	CY	$60.00	$15.000.00	$50.00	$12.500.00	$100.00	$25.000.00
10.	SELECT BACKFILL	500	CY	$10.00	$5.000.00	$6.00	$3.000.00	$25.00	$12.500.00
	SUB-TOTAL 2				$142.340.00		$131.880.00		$201.235.00

BEAVERDAM AREA ANNEXATION - CONTRACT ONE EIGHT INCH SEWER LINE
PROJECT NUMBER SC-91-003
CONTRACT NUMBER E-355
BID OPENING DATE THURSDAY, JULY 9, 1992 AT 10:00 A.M.

					STEPPE CONST. CO. MILL SPRING, NC LIC NO 12248		GOODWATER, INC. GREENVILLE, SC LIC NO 19340	
ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
11.	REMOVAL & REPLACE EXIST. FENCE								
	A. WOODEN FENCE	40	L.F.	$12.00	$480.00	$6.00	$240.00	$50.00	$2,000.00
	B. CHAIN LINK FENCE	80	L.F.	$12.00	$960.00	$10.00	$800.00	$25.00	$2,000.00
12.	DEMOLITION & REMOVAL OF EXISTING MANHOLES	3	EA.	$200.00	$600.00	$600.00	$1,800.00	$300.00	$900.00
13.	SEEDING & GRASSING	LUMP	SUM	$2,000.00	$2,000.00	$8,000.00	$8,000.00	$3,000.00	$3,000.00
14.	TRAFFIC CONTROL	LUMP	SUM	$4,000.00	$4,000.00	$10,000.00	$10,000.00	$1,000.00	$1,000.00
	SUB-TOTAL 3				$8,040.00		$20,840.00		$8,900.00
	SUB-TOTAL 1				$231,922.00		$283,860.00		$280,510.00
	SUB-TOTAL 2				$142,340.00		$131,880.00		$201,235.00
	SUB-TOTAL 3				$8,040.00		$20,840.00		$8,900.00
	TOTAL CONTRACT PRICE				$382,302.00		$436,580.00		$490,645.00

Tuesday - August 4, 1992 - 4:00 p.m.

City Council Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison and Councilman Joseph Carr Swicegood

STORMWATER UTILITY

It was the consensus of Council to set a public hearing for September 1, 1992, at 7:00 p.m. in the Civic Center Banquet Room relative to stormwater utilities.

RESOLUTION NO. 92-106 - RESOLUTION AUTHORIZING SUBMISSION OF A HOME INVESTMENT PARTNERSHIP PROGRAM APPLICATION TO THE ASHEVILLE REGIONAL HOUSING CONSORTIUM FOR HOME INVESTMENT PARTNERSHIP PROJECT FUNDS FOR 1992-93

City Manager Bean said the City will make application for the amount of $500,652 through the HOME Investment Partnership Program for 1992. Of this total, $435,350 will be appropriated to the City-Wide Housing Rehab Program, representing the total amount of non-funded requests of the 1992 City-Wide Rehab and Hill Street/Cherry Street Neighborhood Rehab CDBG applications. Mountain Housing Opportunities, Inc., Affordable Homeownership Program will be appropriated $65,302. This amount is consistent with HUD's commitment of setting aside 15% of its funds for community housing organizations. The Housing and Community Development Committee has reviewed the City's request for HOME Investment Partnership Funds with the following appropriations: City-Wide Housing Rehab - $435,350; MHO Affordable Homeownership Program - $ 65,302; Total $500,652.

Mayor Michalove stated that Council has received copies of the resolution and it will not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-106. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 235

William F. Wolcott Jr.
City Clerk

K. M. Michalove
Mayor

Tuesday - August 11, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; Assistant City Attorney Patsy Brison; Assistant City Manager Charles W. Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore; City Manager Douglas O. Bean; and City Attorney William F. Slawter

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the July 28, 1992, City Council minutes as submitted.

POSTPONEMENT OF AGENDA ITEMS

Mayor Michalove announced that the third reading of the demolition ordinance for 10 Sunset Summit and the second reading of the rezoning ordinance for five properties on Reed Street would be postponed until later dates.

I. PROCLAMATIONS:

A. RESOLUTION NO. 92-107- RESOLUTION OF APPRECIATION TO THOMAS C. POSEY FOR HIS SERVICE AS A MEMBER AND CHAIR OF THE CITY OF ASHEVILLE CIVIL SERVICE BOARD

Mayor Michalove read the resolution stating that Mr. Posey has served as a member of the Asheville Civil Service Board for a period of 21 years. The resolution provided that the Asheville City Council expressed its deep appreciation to Mr. Posey for his service rendered to the employees and citizens of the City of Asheville while serving as a member of the Asheville Civil Service Board.

Resolution No. 92-107 was adopted by acclamation.

RESOLUTION NO. 19 AT PAGE 236

B. PROCLAMATION PROCLAIMING AUGUST 13, 1992, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Michalove proclaimed August 13, 1992, as "Asheville Area Chamber of Commerce Day."

C. **PROCLAMATION PROCLAIMING THE WEEK OF AUGUST 10-14, 1992, AS "ASHEVILLE COMMUNITY THEATRE WEEK" AND AUGUST 15, 1992, AS "CHARLTON HESTON AND LYDIA CLARKE HESTON DAY"**

Mayor Michalove proclaimed the week of August 10-14, 1992, as "Asheville Community Theatre Week" and August 15, 1992, as "Charlton Heston and Lydia Clarke Heston Day." He presented the proclamation to Charlie and Nancy David.

D. **PROCLAMATION HONORING JUDY CULLOM FOR HER PARTICIPATION IN THE MIDNIGHT MADNESS PROGRAM**

Mayor Michalove presented a proclamation to Judy Cullom, Director of Fitness and Family Programs at the YMCA, for her help, support and participation in the Midnight Madness Program.

E. **PRESENTATION OF NORTH CAROLINA ASSOCIATION OF ZONING OFFICIALS, ZONING ENFORCEMENT OFFICER OF THE YEAR AWARD TO SHARON E. ALLEN OF THE PLANNING DEPARTMENT**

Ms. Julia Cogburn, Planning Director, said that Sharon Allen, Development Code Enforcement Administrator for the City, was recognized on August 4, 1992, at the Annual Conference of the N.C. Association of Zoning Officials as the Zoning Enforcement Officer of the Year for the State of North Carolina. This award, presented for the first time by the Association, is presented annually to a zoning official demonstrating professionalism, dedication to the job, exceptional knowledge of the ordinance she is responsible for enforcing, and leadership.

Mayor Michalove was pleased to present the award to Ms. Allen.

II. NEW BUSINESS:

A. **PRESENTATION BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Ms. Annette Coleman, Chairman of the Housing Authority, was pleased to announce three awards of merit the Housing Authority recently received. These awards are for Flexible Affordable Inclusive Rehabilitation (FAIR), Transitional Shelter for the Homeless, and Renovations and Design at Hillcrest. She then introduced members of the Housing Authority and also the staff present from the Housing Authority.

Ms. Mabel Hopkins, member of the Board of Directors of the Housing Authority, stated that at the Southeastern Conference held in July, the Housing Authority received two other awards, those being 1st Place for FAIR and 3rd Place for Renovations to Hillcrest Apartments.

Ms. Coleman then presented the City Council with a check in the amount of $31,771 as payment in lieu of taxes. She said that this check brings the total of the payments from the Housing Authority to the City to $821,401.

On behalf of the City Council, Mayor Michalove thanked the Housing Authority for the fine work the Board and staff does and the progressive way they look at providing housing units.

B. PRESENTATION BY THE ASHEVILLE SCHOOL BOARD RELATIVE TO THE ACCELERATED LEARNING CENTER

Mr. David Hillier, Chairman of the Asheville School Board, and Dr. Doug Pearson, Superintendent of Asheville City Schools, gave an extensive presentation on the Accelerated Learning Center to be located at the vacant Aycock School. Among other things, they talked about the need for the Center, the teachers expectations and the students responsibilities, the temporary placement at the Center, the small teacher/student ratio and the student selection process.

Ms. Maryann Nunnally, principal of a similar type school in Wilmington, spoke highly of success of the program in Wilmington. She stressed that the proposed Center fosters high achievement and feels that with the support of the City, Asheville's program can be as successful as the program in Wilmington.

Upon inquiry of Councilman Peterson about the City School Administrative Offices being located at Pack Plaza for an annual rent of $165,000 when they could be located at some other locations free of rent, Dr. Pearson responded that the Asheville School Board made the decision to lease the space at Pack Plaza for an additional three year period.

Councilman Worley stated that the Center will fulfill a great need in the community.

Vice-Mayor Ellison spoke in support of the Center and hoped that resources would be made available to teachers and students alike.

C. **PRESENTATION BY THE SOLID WASTE TASK FORCE**

Mr. Jan Davis, Chairman of the Solid Waste Subcommittee, outlined the following recommendations:

1. Build and/or contract for a clean Material Recovery Facility (MRF) for processing of source separated recyclables as soon as possible.

2. County Commissioners to dedicate $150,000 per annum toward an overall solid and hazardous waste education program, financed by $1.00 per ton out of the existing tipping fee to continue until the program is no longer needed.

3. Begin source separation and collection of recyclables.

   A. A voluntary incentive based participation policy should be adopted and phased in over a period of months, beginning as soon as processing facilities are built. Participation may become mandatory over time.

   B. Collection and processing could be done by either a public or private entity or a combination of both.

   C. A three bag system (recyclables, compostables and non-processable materials) should be implemented as soon as processing facilities come on line.

   D. Abolish free Saturday at the landfill with the exception of one Saturday semi-annually.

   E. Deal with household hazardous waste separately. (Recommendations regarding hazardous waste collection are now being considered by the Hazardous Waste Committee.)

4. Build and/or contract for a source separated Municipal Solid Waste (MSW) composting facility as soon as possible.

   A. Continue Buncombe County MSW pilot composting project to evaluate marketability and quality of product.

   B. Evaluate co-composting (MSW and sludge) by utilizing the county compost project.

C. Using information from the composting project, revisit technology and marketability on at least a semi-annual basis.

5. The site location for processing facilities should be at or near the existing landfill, if permittable.

6. Implement the Yard Waste Task Force Report.

   A. Education, as addressed in Section 2, is also an essential component of yard waste management.

   B. In the short term utilize existing county facilities to develop compost project and evaluate collection methods and reduce volume by producing a mulch.

   C. Establish a yard waste processing facility, as needed.

7. Non-processable materials rejected to the landfill should be minimized to the greatest extent possible, consistent with production of high quality recyclables and compost.

8. The County should adopt a "no waste in, no waste out" policy with regard to the handling of municipal solid waste. Recyclables and compostables may be excluded from this policy if the importation or exportation of these components would be desirable to achieve optimum marketing economies of scale. It should be noted that special, hazardous, medical and radioactive wastes are not considered municipal solid waste.

9. The County should work with market experts, local Chamber of Commerce and similar agencies to foster the growth of entrepreneurial solutions to waste management issues and to reuse of the waste stream.

10. Construction demolition waste should be addressed separately per the N.C. Solid Waste Management Act (Senate Bill 111). The committee recommends minimizing the amount of material going into the demolition area with the emphasis on recovery and reuse of materials. Industrial and commercial wastes should be handled in a manner consistent with the policies set out in this document.

11. The Solid Waste Committee encourages the Board of County Commissioners to evaluate continued operation of the transfer station as these new plans are adopted, and to consider the closing of the transfer station or any other facility which may become obsolete.

Upon inquiry of Councilman Peterson, Mr. Davis stated that the MRF would cost approximately $2.5 Million which is a large portion of the overall component.

Mr. Hank Jackson, member on the Yard Waste Task Force of the Subcommittee, spoke about the need for yard waste management.

Mr. Hyder, Hyder Waste Containers Inc., stated that they are presently building a MRF.

Councilwoman Field spoke about the fine job the Solid Waste Subcommittee has done in presenting these recommendations.

Mr. Albert Sneed, representative of Council of Independent Business Owners (CIBO), urged the City Council to take a serious look at privatization of solid waste collection services, which would save the City a lot of money and result in recycling starting immediately.

Ms. Carolyn Wallace, representative of Citizens for Quality Development, read the following report relative to privatization of garbage collection and recycling:

"We are encouraged by some of the recommendations of the Solid Waste Committee of the Environmental Affairs Board to the County Commissioners today. We are encouraged because these recommendations hold the promise of source-separated recycling (separated at home or business), a clean Materials Recovery Facility, and county-wide composting in the near future. We support the city in moving forward to futher (sic) the goals of reduction, reuse, and source-separated recycling in as timely a manner as possible.

"In regard to the issue of privatization, we agree with the Council of Independent Business Owners that privatization of some areas of city government should be actively explored. Looking at the privatization of garbage collection and recycling in particular, any municipal solid waste privatization plan should be carefully coordinated with plans developed by the County Commissioners, who are responsible to the State for reducing the solid waste stream by 25% by January 1, 1993.

"The rest of our comments are based on the assumption that this cooperation and coordination will occur.

"The potential benefits of this privatization are fairly simple to describe: increased efficiency and cost-effectiveness, maybe even a very substantial cost savings. The potential problems, however, that inadequately planned and poorly executed waste handling privatization may bring can be very difficult, if not impossible, to control once the process reaches a certain point. Following are some examples:

- poor service
- accountability problems
- unfair treatment of labor force (poor wages and benefits, dicrimination, (sic) diminished job security, etc.)
- bid-rigging
- price-gauging (sic)
- growth of monopolies (which bring a myriad of problems)
- displacement of local businesses by larger, non-locally owned companies that can underbid the local ones, take control, and raise rates
- hindrance of local, entrepreneuril (sic) solutions to dealing with waste

"CQD feels strongly that any initial steps toward privatization of waste collection in our city must be measured by the degree to which they prevent the larger problems that can accompany privatization. Such steps can help to ensure our ability to garner the full benefits that privatization promises.

"Five critical tools which can help safeguard this process are:

1. a "bad actor" ordinance which prohibits contracting with companies that have a history of environmental and/or other convictions
2. a division of the city into a minimum of three collection districts to ensure competition, encourage local business participation, and prohibit the growth of a monopoly
3. a requirement of contractors to hire their fair share of otherwise displaced city employees at equal or better wages and benefits than they currently receive
4. an agreement and contract in writing that contractors will not discriminate against employees on the basis of race, sex, sexual orientation, or national origin

5. a careful ongoing monitoring and evaluation of performance standards with clear legal recourse written into the contracts to ensure quality control of service (If you ask a person on the street what they get for their city taxes, most will say, "Garbage pick-up." Therefore, we would anticipate that quality control and accountability will be uppermost in many city residents' minds in evaluating the success of such a program.

"In closing: CQD has done enough research to clearly report that many cities in this country are enmeshed in horrendous problems as a result of not getting into place some of the safeguards we are calling for. We are confident that the research your staff has already done supports this assertion. We will be glad to share with you any of the materials we have used in studying this issue.

"PLEASE: Put adequate safeguards in place so we can really test the potential benefits of privatization, rather than experiencing the nightmares inadequate safeguards will invite."

Ms. Spike Graham, representing the Buncombe County Waste Watchers, read the following statement:

"As a group of citizens concerned with the natural environment in the Asheville area, we want to recommend that the City of Asheville support and strengthen where possible the recommendations from the Solid Waste Sub-Committee of the Buncombe County Environmental Affairs Board. We bring this to City Council because we know you are looking at privatization of garbage and recycling pick-up.

"We have serious concerns regarding the move to privatize public services and want to urge the City Council to act cautiously and with careful deliberation.

"In general, we feel that it is very important to keep public services in public hands. While privatization may be attractive in some respects, there are dangers and problems that need to be addressed before embarking on a precedent setting policy. Specially, we urge that the City Council carefully consider the following:

1) Any city privatization of garbage pick-up and recycling must fit into the Buncombe County plan, and these programs need to be coordinated and integrated.

2) The city pass a "Bad Actor" ordinance. There are serious problems with unscrupulous vendors

obtaining contracts and causing difficulties later for public agencies by performing illegal acts. A performance record is a good indication of future activities. There are serious liability concerns for contractual malfeasance. We ask city employees for character references, why not vendors? Models are available.

3) There are labor concerns regarding the displacement of city employees. How long must contractors employ displaced city employees? What about their pension and health care plans? How do we safeguard fair labor practices, including minority hiring?

4) How do we develop anti-monopolistic safeguards? There is a clear trend in private industry for the "big fish" to swallow up the "little fish." Should the city contract any services, there should be a provision for a minimum of two or three different vendors.

5) If efficiency is a motive, perhaps the city could contract with private companies for advice. If private companies with a profit motive can outbid the city for a service, then the city needs to look at its operations for efficiency.

6) If the city should move towards privatization, what does it do with its invested equipment? At what point does it divest itself of that capital, and then what are its options once that the equipment is *gone*?

7) We must be aware of what is happening in other places in this country (and around the world), in order to not be mislead. There are enormous financial pressures for large urban centers to dispose of their wastes elsewhere as they are running out of landfill space nearby. It is not uncommon for trains and barges of garbage to roam the country looking for a place to dump. With I-26 shortening the way from the Ohio Valley to our community, we stand the distinct risk of attracting considerably more than tourists. The US Supreme Court has recently ruled that it is unconstitutional for states to prohibit the transport of waste, so we should develop public policies to discourage imported waste. Whether utilizing private waste haulers will encourage or discourage imported waste will be a question the

council will have to decide and develop appropriate safeguards for the public interest.

"In general, local communities having the responsibility of their own waste promotes sensible stewardship. Keeping public services in public hands is a safeguard against abuse and opportunism for personal gain."

Ms. Leni Sitnick stated that this is a wonderful opportunity for the business community and the environmental community to prove that a clean environment and jobs are mutually supportive of each other.

Mr. Barry Carlyle encouraged the City and County to work together towards privatization.

Mr. Mike Griffin, Hyder Waste, spoke in support of privatization of sanitation services in the City.

Mr. Ralph Bishop felt that if the sanitation services were inadequate, the City should look at the officials in charge of those services.

At this time, 6:00 p.m., it was the consensus of Council to take a five minute break.

III. PUBLIC HEARING:

A. **PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 19-23 (KNOWN AS THE WESTRIDGE MARKET PLACE PROPERTY)**

Mayor Michalove opened the public hearing at 6:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, summarized the Standards and Services Report for the Noncontiguous Annexation of Westridge Market Place property as follows:

She stated that a petition for the annexation of a noncontiguous area located on US Highway 19/23 was received on July 1, 1992, and that the property is owned by the Westridge Market Place Associates, Inc.. She further stated that the property for which annexation is being requested is an out parcel of the retail center, with the out parcel containing approximately 1.27 acres.

The noncontiguous area proposed for annexation meets all of the requirements of N. C. Gen. Stat. sec. 160A-58 as follows:

1. The nearest point on the proposed satellite corporate limits is not be more than three miles from the primary corporate limits of the annexing city in that the subject property is approximately 1.7 miles from the closest point of the existing corporate limits line.

2. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.

3. The area is situated so that the City of Asheville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

Fire Protection - The Asheville Fire Department's investigation states that the property proposed for annexation is situated approximately 3.8 miles from Asheville Fire Department Station #6 on Haywood Road. The City has been informed that the Enka-Candler Fire and Rescue Board of Directors will meet on August 18, 1992, to decide whether to enter into a contract with the City of Asheville to provide fire protection service to the property proposed for annexation on a first response basis in case of an emergency. While a joint response from the Asheville Fire Department and Enka-Candler Fire and Rescue Department would be the most efficient level of fire protection, the City of Asheville can provide fire protection to the satellite annexation area on the same basis and manner as provided in the rest of the City.

Police Protection - The Asheville Police Department reports that the Buncombe County Sheriff's Department, has agreed to continue to provide patrol and initial response services to the property proposed for annexation. The Police Department will be responsible for any follow-up investigations. There are no additional costs to the City of Asheville to provide law enforcement services.

Water & Sewer Services - During the construction of the Westridge Market Place, provisions for water and sanitary sewer service were made for the parcel which is proposed for annexation. The property proposed for annexation is presently served by an 6 " public water main located along U.S. Highway 19/23 which is maintained by the Asheville/Buncombe Water Authority. The property proposed

for annexation is also served by a 8" public sewer line owned and maintained by the Metropolitan Sewage District of Buncombe County. There will be no additional cost to the City of Asheville to provide water or sewer services.

Street Maintenance and Street Lights - The area proposed for annexation is serviced by U.S. Highway 19/23 and therefore would remain the N.C. Department of Transportation's responsibility to maintain. Maintenance of private roads and lighting on private property are the owner's responsibility. The entrances to the property and the parking lot are private, therefore they will be maintained by the owner. There will be no additional cost to the City.

Solid Waste Collection - The property proposed for annexation is a vacant parcel of the Westridge Market Place retail center and no solid waste collection services are needed at this time. The Public Works Department reports that when the parcel is developed as a commercial use, under current City policy the responsibility for making arrangements with a private solid waste collector for service will rest with the property owners. There will be no impact on the Public Works Department's budget as a result of this annexation.

The area proposed for annexation is not a subdivision or a portion thereof.

The area within the proposed satellite limits, when added to the area within all other satellite corporate limits, does not exceed 10% of the area within the primary corporate limits of the annexing city.

The Westridge Market Place parcel is approximately 1.27 acres. The total of the land area of all current satellite areas in the City of Asheville is approximately 11.18 acres. Upon annexation of the Westridge Market Place property the combined land area for all satellite areas of the City of Asheville would be 12.45 acres. The total land acreage of the City of Asheville is approximately 36.12 square miles. Ten percent of the area of the city is 3.61 square miles or 2,310.40 acres.

The real property tax value of the property under consideration for annexation is $100,000. The 1992-93 ad valorem revenues, based on the City's tax rate of $.60 per $100.00 valuation, would be $600. The property proposed for annexation is under consideration for a State of North

Carolina Alcoholic Beverage Control retail store. While the State of North Carolina does not pay local property tax, the City of Asheville is entitled to a share of the revenues from sale of alcoholic beverages sold in the County.

Based on a valuation of $100,000 at the present fire district tax rate of $.05 per $100.00 valuation, the annual compensation to the Enka-Candler Fire and Rescue Department would equal $50.00.

Upon inquiry of Mayor Michalove, Ms. Tallerday stated that the reason that 4 out of the 5 satellite annexations were requested was to sell liquor by the drink at their establishments. One of the annexations was the Ramada Inn in the Enka-Candler area. It was also noted that the City has never turned down a request for satellite annexation of a restaurant so it could serve liquor by the drink.

Upon inquiry of Vice-Mayor Ellison, Ms. Tallerday stated that there are already 3 businesses that sell alcohol at the Westridge Market Place Shopping Center. She also stated that the Enka Lake Club has a permit which allows patrons to bring alcoholic beverages in a brown bag.

Mr. Frank Worley, Chairman of the Alcoholic Beverage Control Board, stated that alcohol has been sold in Asheville since 1947. They are requesting to provide a service and revenue to the City and County from the legal sale of a legal substance (alcoholic beverages). He stated that the location meets all state statutory requirements.

Mr. Worley addressed questions from various Council members. In response he stated that: 1) he anticipates customers coming from the west Buncombe County area to the store and they now either go to Canton or to the Patton Avenue/Louisiana Avenue store; 2) the existence of an ABC store does not affect consumption; 3) the amount of revenue to the City would be approximately $30,000 annually; 4) ABC stores in North Carolina are prohibited from advertising; and 5) the local Board has looked at two locations and after weighing the pros and cons, they have determined that the Westridge Market Place is the best location for this store.

Upon inquiry of Mayor Michalove, Ms. Tallerday stated that the annexation of the Enka-Candler area is presently stayed, pending court decisions. If the annexation of this area takes place, the ABC store will be a compatible use since it is in a commercial area.

Mr. Frank Griffin, resident on Asbury Road, spoke against the proposed satellite annexation. Among other

things, he stated that the ABC Store will be on Asbury Road (not Highway 19-23) and that Asbury Road leads up to Enka Middle School. He expressed concerns about increased traffic and the increased availability of alcohol which will insure more drunkenness on the roads. He feels that the revenue the City receives from the ABC store will be nothing compared to lives lost by drunk drivers. He presented the City Council with a petition with 75 signatures in opposition to this satellite annexation and an additional 150 letters in opposition.

In response to a question from Mayor Michalove about access to the store by Mr. Griffin, Ms. Tallerday stated that the ABC Store will have access from both Highway 19-23 and Asbury Road.

Vice-Mayor Ellison stressed that the ABC Store is a business that has the same rights as other businesses in the area. He could not justify why it would be okay for the City to approve some businesses and disapprove others.

Mr. Worley responded to Mr. Griffin's statement about increased traffic. He said that a traffic count was conducted by the North Carolina Department of Transportation and there would be no additional traffic as a result of this ABC store being built.

Mr. Bennie Reese, resident in the Enka-Candler area, spoke in opposition to the satellite annexation. He was very much concerned about the availability of alcohol and how it related to problems in families.

Mr. Max Queen, representative of the Enka-Candler Fire and Rescue Department ("Department"), stated that the people who have signed the petition opposing the satellite annexation represent the backbone of the Enka-Candler community and their financial support (through their tax dollars) helps keep the Department in operation. If the annexation occurs, then the Board of Directors of the Department will need to make the decision on whether or not to contract with the City for fire protection services. If the contract is executed, the Department will maintain a positive relationship with the City, but will appear to turn its back on the population that supports them. If the contract is not executed, the Department would then seem to turn its back on its fellow firefighters. He feels that they are in a very difficult situation.

Asheville Fire Chief John Rukavina stated that the City of Asheville standard for fire protection is based on a maximum response distance of five road miles. He also

described factors they take into consideration in determining how to provide fire protection services. He said that in this area, fire protection from the City to this location is consistent with similar situations inside the City limits. He said they would be able to provide the ABC Store with adequate protection without the first response contract with the Department if they chose not to contract with the City. He did state, however, that he felt confident that if the City arrived on the scene and asked for help, the Department would come to their aid through the mutual aid request.

Upon inquiry of Vice-Mayor Ellison relative to liability the City would be exposing itself to if a contract were not entered, Assistant City Attorney Brison said that the City has some sovereign immunity in the area of firefighting.

Mr. Jerry Watts, resident of the Enka-Candler area, spoke in opposition of the satellite annexation. He was concerned about the proximity of Enka Middle School to the store and felt that the citizens of the area had rights too, just like the businesses.

Mayor Michalove closed the public hearing at 7:10 p.m.

Mayor Michalove stated that 416 letters in opposition to this satellite annexation have been presented to the City Council on July 28, 1992; 4 letters in opposition have been received in the Mayor's Office; 1 letter with a resolution has been received from Buncombe County requesting denial of the annexation petition; 102 signatures on a petition in opposition was presented to the City Council on July 28, 1992; and 1,540 signatures on a petition in opposition was presented to the City Council on July 14, 1992.

Mayor Michalove suggested the City Council take no action today and consider the information presented.

At the suggestion of Assistant City Attorney Brison on the proper procedure to continue this matter to a later date, Mayor Michalove reopened the public hearing at 7:12 p.m.

Mayor Michalove asked Mr. Frank Worley if the City Council postponed this action until September 29, 1992, if the option to purchase this property would still be in effect. Mr. Worley responded that there should be no problem in this postponement.

Mayor Michalove asked that the petitioners who are requesting this satellite annexation be present when the public hearing continues.

Councilman Peterson moved to continue the public hearing until September 29, 1992, without further advertisement. This motion was seconded by Councilwoman Field and carried unanimously.

At 7:15 p.m., Councilman Peterson moved to excuse Councilman Swicegood (due to a prior commitment). This motion was seconded by Councilman Worley and carried unanimously.

IV. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until October 13, 1992, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

B. SECOND READING OF ORDINANCE NO. 1980 - AN ORDINANCE AMENDING ZONING OF FIVE PROPERTIES LOCATED ON REED STREET

Vice-Mayor Ellison moved to continue the second reading of Ordinance No. 1980 until August 25, 1992, without further advertisement. This motion was seconded by Councilwoman Field and carried unanimously.

I. PROCLAMATIONS: (Continued)

A. RESOLUTION NO. 92-108 - RESOLUTION DEPLORING HATE CRIMES AND ENDORSING THE INTENT OF THE STATE LAWS ON ETHNIC ANIMOSITY

Mayor Michalove read the resolution stating that the City Council deplores hate crimes and pledges its support of the intent of North Carolina's hate crime laws. The resolution also provides that the City Council redouble their commitment to the elimination of hate crimes in Asheville and urge all citizens of Asheville, Buncombe County and Western North Carolina to join with them in this important cause.

Mayor Michalove, on behalf of the City Council, asked the Citizens/Police Advisory Committee to look into the hate

crime kinds of incidents in the community and provide the City Council with their thoughts about what is taking place, the number of incidents, etc.

Councilwoman Field moved for the adoption of Resolution No. 92-108. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 237

II. NEW BUSINESS: (Continued)

D. ORDINANCE NO. 1981 - AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING PARKING PENALTIES

Assistant City Manager Penny stated that pursuant to a report relative to parking regulations presented to the City Council on July 28, 1992, an ordinance was prepared increasing the civil penalty for overtime parking. This ordinance will increase the penalty for overtime parking from $3.00 to $5.00 and increase the penalty for a second or subsequent violation at the same location within a twenty-four (24) hour period from $5.00 to $8.00.

Assistant City Attorney Brison stated that the ordinance sent out to the Council previously had two typographical errors in it. She pointed out the errors and asked that Council change their ordinances according to the provisions set forth in the paragraph above.

Mayor Michalove stated that Council members have been furnished with copies of the ordinance and it would not read.

Councilman Peterson moved to amend the ordinance as requested by Assistant City Attorney Brison. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1981. This motion was seconded by Councilman Worley.

On a roll call vote of 5-0, Ordinance No. 1981 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1981. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 5-0, Ordinance No. 1981 passed on its second reading.

E. RESOLUTION NO. 92-109 - RESOLUTION ESTABLISHING REVISED RATES TO BE CHARGED IN CITY PARKING LOTS

Assistant City Manager Penny stated that this resolution also was prepared pursuant to a report relative to parking regulations presented to the City Council on July 28, 1992. This resolution will establish revised rates to be charged in City parking lots as follows:

Rankin Deck	$ .50 per hour 2.50 per day maximum 30.00 per month
Wall Street Deck	$ .50 per hour 2.50 per day maximum 30.00 per month
Civic Center Deck	$ .50 per hour 2.50 per day maximum 20.00/mo roof top 24.00/mo group rate (10 or more) 28.00/mo individual rate
Lot 3 - Biltmore at Aston	Multi-coin meters
Lot 21 - Lexington Avenue	Multi-coin meters
Lot 24 - Aston at S. Lexington	$15.00 per month
Lot 13 - Rankin Avenue	$15.00 per month
Lot 5 - Grove Street	Terminate the lease
Lot 12 - Grove Street	Multi-coin meters
Lot 29 - Grove Street	$ 1.00 per day 10.00 per month
Lot 2 - Marjorie Street	City Employees Only
Lot 22 - Davidson Street	$15.00 - 32 monthly patrons City employees primarily

Mayor Michalove said members of Council have been furnished with copies of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-109. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 239

F. SUPPORT OF UPGRADING US 23

Vice-Mayor Ellison moved to support the upgrading of US Highway 23 into Johnson City, Tennessee, keeping in mind the concerns about development and the environment. This motion was seconded by Councilwoman Field and carried unanimously.

G. ORDINANCE NO. 1982 - BUDGET AMENDMENT APPROPRIATING 18TH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ENTITLEMENT

Vice-Mayor Ellison said that this budget ordinance amendment represents funding for the 18th year of the CDBG program. Funding for the previous year was $1,214,000. The City has therefore received an increase of 10.5%. Two years ago the program was funded at $975,000. Allocation of the 18th year funding was approved by the City Council on May 19, 1992, after a citizen participation process that included two public hearings.

The following breakdown includes budget totals by activity:

Hill/Cherry St. Area (Head of Montford)	$ 405,500
Housing Rehab - City-wide	265,650
Neighborhood Housing Services	125,000
Mountain Housing Opportunities	115,000
Habitat for Humanity	15,000
Women's Transitional House	27,000
Hillcrest Enrichment Program	30,000
Community Relations Council	14,500
South Pack Square Redevelopment	114,500
Disparity Study	45,000
Comprehensive Planning	30,000
Minority Business Program	44,000
Community Development Administration	149,400
Total Budget	$1,380,550

Mayor Michalove said members of Council have been furnished with copies of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1982. This motion was seconded by Councilwoman Field.

On a roll call vote of 5-0, Ordinance No. 1982 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 112

H. ORDINANCE NO. 1983 - BUDGET AMENDMENT TO ADMINISTER A DEPARTMENT OF INTERIOR HISTORIC PRESERVATION FUND GRANT - EAGLE/MARKET STREET FACADE STUDY

Mr. Kent Newell, Historic Resources Commission Director, stated that this budget ordinance amendment in the amount of $8,000 is to develop a facade design guidebook for the Eagle/Market Street area for use by property owners. It is hoped this effort will stimulate interest in the preservation and rehabilitation of individual facades.

Mayor Michalove stated that members of Council have been furnished with copies of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1983. This motion was seconded by Councilman Peterson.

On a roll call vote of 5-0, Ordinance No. 1983 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 114

I. ORDINANCE NO. 1984 - BUDGET AMENDMENT TO ADMINISTER A DEPARTMENT OF CULTURAL RESOURCES CLG GRANT PROJECT: HILLSIDE/MT. CLARE HISTORIC RESOURCE INVENTORY

Mr. Kent Newell, Historic Resources Director, stated that this budget ordinance amendment, in the amount of $4,750, is for the Hillside/Mt. Clare Historic Resource Inventory Project. The Project is twofold:

1. Identification of cultural resources: The Hillside/Mt. Clare neighborhood is one of the only remaining unsurveyed areas adjacent to downtown Asheville. Nestled among three National Register Historic Districts, this area is rich in resources and is endangered by eminent road widening projects.

2. Training volunteers for future surveys: Volunteers from the Asheville/Buncombe County Preservation Society will be trained by the consultant and by Preservation Society staff in North Carolina survey methodology. This will provide self-sufficiency, minimizing future grant requests.

Mayor Michalove stated that members of Council have been furnished with copies of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1984. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 5-0, Ordinance No. 1984 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 116

V. CONSENT:

A. CERTIFICATION OF THE PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A NONCONTIGUOUS AREA ON U.S. HIGHWAY 25 (KNOWN AS THE ROBERT LEWIS PROPERTY)

RESOLUTION NO. 92-110 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED ON U.S. HIGHWAY 25 PURSUANT TO N. C. GEN. STAT. SEC. 160A-58.2 (ROBERT LEWIS PROPERTY) FOR AUGUST 25, 1992

Summary: Certification by the City Clerk as to the sufficiency of said petition has been made. N. C. Gen. Stat. sec. 160A-58.2 requires that upon the certification of the sufficiency of a petition for a non-contiguous annexation, the City Council shall fix a date for a public hearing on the annexation. The resolution sets the public hearing for August 25, 1992. The property to be considered for annexation is located on U.S. Highway 25.

RESOLUTION BOOK NO. 19 AT PAGE 241

B. RESOLUTION NO. 92-111 - RESOLUTION REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO REMOVE CERTAIN STREETS IN THE HAW CREEK II ANNEXATION AREAS FROM THE STATE STREET SYSTEM SO THAT THEY MAY BE PLACED UPON THE CITY STREET SYSTEM

Summary: The Haw Creek II annexation area became a part of the City on June 30, 1992. Certain streets in the area need to be taken off the State Street System and placed on the City Street System. The streets can be claimed on the City's street mileage report for 1992 and will receive Powell Bill funds from the state.

RESOLUTION BOOK NO. 19 AT PAGE 243

C. RESOLUTION NO. 92-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY, INC., FOR THE PROJECT KNOWN AS BEAVERDAM AREA ANNEXATION - CONTRACT TWO (EIGHT INCH SEWER LINE PROJECT)

Summary: This project involves the installation of approximately 6,300 linear feet of 8" sanitary sewer pipe, 650 linear feet of 4" sanitary sewer pipe, 50 manholes and related sewer appurtenances. Sealed bids were opened on July 27, 1992, with Wheeler Construction Company, Inc., being the lowest responsible bidder at $258,640.

It is anticipated that construction will begin in approximately 4 weeks and that the project will be completed by January, 1993. A complete summary of the bids are attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 19 AT PAGE 245

D. RESOLUTION NO. 92-113 - RESOLUTION CALLING FOR A PUBLIC HEARING ANNOUNCING THE COMPLETION AND TOTAL COST OF THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Summary: A public hearing is set for August 25, 1992, to announce the completion and determine the total cost of the Azalea Avenue Project

RESOLUTION BOOK NO. 19 AT PAGE 246

E. RESOLUTION APPOINT MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Rev. Lacy Haith, Mr. Bruce Johnson and Ms. Cathy Smart Butler expired on July 1, 1992. This resolution will reappoint Mr. Johnson for a three year term (term expiring July 1, 1995, or until his successor has

been duly appointed and qualified), and appoint Mr. John Fisher to serve a three year term (term expiring July 1, 1995, or until his successor has been duly appointed and qualified).

RESOLUTION BOOK NO. 19 AT PAGE 247

F. MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, FOR THE FILING OF A GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FISCAL YEAR 1993 TRANSIT OPERATING ASSISTANCE

G. MOTION SETTING PUBLIC HEARING FOR AUGUST 25, 1992, RELATIVE TO GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENT POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

H. MOTION SETTING PUBLIC HEARING FOR AUGUST 25, 1992, TO CONSIDER A REQUEST FOR A VARIANCE TO ALLOW A PRIVATE STREET INSTEAD OF A PUBLIC STREET, AS REQUIRED BY THE SUBDIVISION REGULATIONS, IN HEATH RIDGE ACRES SUBDIVISION

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS RELATIVE TO HATE CRIMES

Ms. Leni Sitnick expressed her feelings of dissatisfaction about the long wait the PRIDE group encountered in order to make a presentation to the City Council.

Mayor Michalove, along with Vice-Mayor Ellison, assured her that even though the agenda was altered, it had nothing to do with the presentation relative to hate crimes.

Mr. Joe Webster summarized the following actions they request the City Council to implement in order to counteract hate crimes:

1. Teach tolerance in our schools
2. Require community relations training for police
3. Trace hate crimes in our community
4. Report hate crimes to City Council and public
5. Require tolerance training for hate crime offenders
6. Pass an anti-discrimination ordinance

He stated that the members of PRIDE are willing to assist the City Council in any way they can.

By use of a chart, Mr. Bob Warren showed how Asheville is surrounded by organizers of white supremacist groups. He mentioned several survivalist camps and survivalist workshops in the immediate area and told of marches by Ku Klux Klan sympathizers.

Because the Asheville-Buncombe County Community Relations Council is 1) designed to deal with these type issues; 2) has direct contact with State organizations, and 3) this issue is much broader than the Asheville area, Mayor Michalove asked Mr. Webster to present this information to them and to the Citizens/Police Advisory Committee.

Ms. Irmgard Gordos, resident of Bingham Heights, spoke about problems she has encountered since moving to Bingham Heights. Mayor Michalove stated that he would have someone contact her to see what kind of help she could be given.

Ms. Charlotte Goedsche stated that the resolution did not include hate crimes directed at gays and lesbians.

Ms. Carolyn Wallace stressed that PRIDE is willing to help in any way they can and asked that the community take a very strong stand against hate crimes.

Vice-Mayor Ellison hoped that PRIDE is contacting our legislators with this information so that they will be in a better position to address the issue.

Ms. Sue Walton echoed Ms. Wallace's comments and stressed that hate crimes will not be tolerated in Asheville.

Ms. Mary Heuer asked the City Council to take a stand against hate crimes.

B. CLAIMS

Assistant City Manager Penny said that the following claims were received by the City of Asheville for the week of July 13-17, 1992: William F. Ball (Water); Ron Waters (Water); Marcus Chatfield (Water); John J. Meeker Sr. (Streets); Dennis Young (Water); and Chris King (Streets).

He stated that the following claims were received for the week of July 27-31, 1992: Greg Walker (Traffic Engineering); Bridgett Garrison (Streets); Nancy Treadway (Streets); Mary Heath (Streets); Kenneth Lee (Police); Michael Grooms (Water); and Renee Swayngim (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 8:35 p.m.

William D. Bolcott, Jr. — CITY CLERK

W. M. Michalove — MAYOR

BEAVERDAM ROAD INTERCEPTOR - COLLECTOR SYSTEM SEWER LINE PROJECT
PROJECT NUMBER SC-91-00[redacted]
CONTRACT NUMBER S-358
BID OPENING DATE MONDAY, JULY 27, 1992 AT 10:00:00 A.M.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	WHEELER CONST. CO. WEAVERVILLE, NC LIC NO 14910 UNIT PRICE	WHEELER CONST. CO. EXTENDED TOTAL	STEPPE CONST. CO. HILL SPRING, NC LIC NO 12248 UNIT PRICE	STEPPE CONST. CO. EXTENDED TOTAL	BOBSON CONST. CO. ARDEN, NC LIC NO 3756 UNIT PRICE	BOBSON CONST. CO. EXTENDED TOTAL	BUCKETT CONST. CO. CANTON, NC. LIC NO 23096 UNIT PRICE	BUCKETT CONST. CO. EXTENDED TOTAL
1.	MOBILIZATION	LUMP	SUM	$4,000.00	$4,000.00	$8,000.00	$8,000.00	$5,000.00	$5,000.00	$15,000.00	$15,000.00	$13,000.00	$13,000.00
2.	SANITARY SEWERS												
	A. 8-IN DUCTILE IRON CLASS 50 SAN. SEWER PIPE & BEDDING	288	L.F.	$24.00	$6,912.00	$24.00	$6,912.00	$25.00	$7,200.00	$22.00	$6,336.00	$22.33	$6,431.04
	B. 8-IN SEWER PIPE AND BEDDING	6,014	L.F.	$17.00	$102,238.00	$17.00	$102,238.00	$20.50	$123,287.00	$18.00	$108,252.00	$20.33	$122,264.62
	C. 4-IN SEWER PIPE AND BEDDING	650	L.F.	$10.00	$6,500.00	$12.00	$7,800.00	$9.00	$5,850.00	$12.00	$7,800.00	$10.00	$6,500.00
3.	SANITARY SEWER PRECAST CONCRETE MANHOLES												
	A. 4-FOOT DIA. STANDARD PRECAST CONCRETE	50	EA.	$1,000.00	$50,000.00	$1,000.00	$50,000.00	$1,050.00	$52,500.00	$1,200.00	$60,000.00	$1,070.00	$53,500.00
	B. 4-FOOT DIA. STANDARD PRECAST CONCRETE EXTRA DEPTH	10	V.F.	$100.00	$1,000.00	$100.00	$1,000.00	$90.00	$900.00	$80.00	$800.00	$100.00	$1,000.00
4.	TIE-IN EXISTING/PROPOSED [redacted] MANHOLES:												
	A. CONNECTION OF EXISTING OR PROPOSED 4-IN OR 6-IN SEWER LATERALS TO NEW MANHOLES (COMPLETE)	8	EA.	$180.00	$1,440.00	$200.00	$1,600.00	$500.00	$4,000.00	$200.00	$1,600.00	$100.00	$800.00
	SUB-TOTAL 1				$174,090.00		$177,550.00		$198,737.00		$199,788.00		$203,495.66

Exhibit "A"

BEAVERDAM AREA ANNEXATION - CONTRACT TWO EIGHT INCH SEWER LINE PROJECT
PROJECT NUMBER SC-91-0038
CONTRACT NUMBER B-358
BID OPENING DATE MONDAY, JULY 27, 1992 AT 10:00 A.M.

	WHEELER CONST. CO. WEAVERVILLE, NC LIC NO 14910		STEPPE CONST. CO. HILL SPRING, NC LIC NO 12218		HOBSON CONST CO. ARDEN, NC LIC NO 3756		BUCKEYE CONST. CO. CANTON, NC LIC NO 23056	
ITEM DESCRIPTION	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL	UNIT PRICE	EXTENDED TOTAL
B. LATERAL SERVICE CONNECTION TO NEW SANITARY SEWER PIPE (COMPLETE)	$100.00	$3,300.00	$100.00	$3,300.00	$100.00	$3,300.00	$100.00	$3,300.00
5. 4-IN CLEANOUTS (COMPLETE)	$100.00	$4,100.00	$75.00	$3,075.00	$50.00	$2,050.00	$100.00	$4,100.00
6. PAVEMENT REPAIRS: (SEWER LINE ONLY)								
A. AGGREGATE BASE COURSE	$10.00	$16,500.00	$8.50	$14,025.00	$9.50	$15,675.00	$10.00	$16,500.00
B. BIT. CONCRETE BASE COURSE (TYPE BB)	$54.00	$17,550.00	$60.00	$19,500.00	$45.00	$14,625.00	$60.00	$19,500.00
C. BIT. CONCRETE SURFACE COURSE (TYPE I-2)	$50.00	$10,000.00	$50.00	$10,000.00	$50.00	$10,000.00	$55.00	$11,000.00
7. 8-IN THICK PLAIN (000 PSI CONCRETE FOR DRIVEWAY REPAIR	$30.00	$4,140.00	$30.00	$4,140.00	$25.00	$3,450.00	$40.00	$5,520.00
8. MISC. PLAIN 3000 PSI CONCRETE FOR ENCASEMENT	$200.00	$1,600.00	$200.00	$1,600.00	$150.00	$1,200.00	$175.00	$1,400.00
9. EXTRA PIPE BEDDING	$12.00	$3,600.00	$13.00	$3,900.00	$10.00	$3,000.00	$14.00	$4,200.00
SUB-TOTAL 2		$60,790.00		$59,540.00		$53,300.00		$65,520.00

BEAVERDAM AREA ANNEXATION - CONTRACT TWO EIGHT INCH SEWER LINE PROJECT
PROJECT NUMBER SC-91-003B
CONTRACT NUMBER R-358
BID OPENING DATE MONDAY, JULY 27, 1992 AT 10:00 A.M.

ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEERS ESTIMATE	ENGR. EST. TOTALS	WHEELER CONST. CO. WEAVERVILLE NC LIC NO 14918 UNIT PRICE	WHEELER CONST. CO. EXTENDED TOTAL	STEPPE CONST. CO. HILL SPRING, NC LIC NO 12248 UNIT PRICE	STEPPE CONST. CO. EXTENDED TOTAL	HOBSON CONST. CO. ARDEN, NC LIC NO 3756 UNIT PRICE	HOBSON CONST. CO. EXTENDED TOTAL	BUCKEYE CONST. CO. CANTON, NC LIC NO 23096 UNIT PRICE	BUCKEYE CONST. CO. EXTENDED TOTAL
10. ROCK EXCAVATION AND SELECT BACKFILL	200	CY	$60.00	$12,000.00	$50.00	$10,000.00	$50.00	$10,000.00	$50.00	$10,000.00	$55.00	$11,000.00
11. SELECT BACKFILL	300	CY	$12.00	$3,600.00	$8.00	$2,400.00	$6.00	$1,800.00	$5.00	$1,500.00	$10.00	$3,000.00
12. DEMOLITION & REMOVAL OF EXISTING MANHOLES	3	EA.	$1,000.00	$3,000.00	$300.00	$900.00	$600.00	$1,800.00	$300.00	$900.00	$400.00	$1,200.00
13. SEEDING & GRASSING	LUMP	SUM	$2,000.00	$2,000.00	$3,000.00	$3,000.00	$2,000.00	$2,000.00	$3,000.00	$3,000.00	$4,000.00	$4,000.00
14. TRAFFIC CONTROL	LUMP	SUM	$3,000.00	$3,000.00	$4,000.00	$4,000.00	$2,000.00	$2,000.00	$12,000.00	$12,000.00	$50.00	$50.00
SUB-TOTAL 3				$23,600.00		$20,300.00		$17,600.00		$27,400.00		$19,250.00
SUB-TOTAL 1				$174,090.00		$177,550.00		$198,737.00		$199,788.00		$203,495.66
SUB-TOTAL 2				$70,825.00		$60,790.00		$59,540.00		$63,000.00		$65,520.00
SUB-TOTAL 3				$23,600.00		$20,300.00		$17,600.00		$17,400.00		$19,250.00
TOTAL CONTRACT PRICE				$268,515.00		$258,640.00		$275,877.00		$280,188.00		$288,265.66

Tuesday - August 25, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Chris J. Peterson

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the August 11, 1992, City Council minutes as submitted.

POSTPONEMENT OF AGENDA ITEM - GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENT PUBLIC HEARING RELATIVE TO UNIFIED DEVELOPMENT ORDINANCE

Mayor Michalove announced that the public hearing relative to group development/planned unit development policy issue for the unified development ordinance would be opened and postponed until Tuesday, September 8, 1992, at 7:00 p.m. in the Council Chamber on the second floor of the City Hall Building. The reason for this continuance is because a number of individuals and groups did not receive the information far enough in advance to formulate their comments.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING AUGUST 28-30, 1992, AS "GOOMBAY! FESTIVAL DAYS"

Mayor Michalove proclaimed August 28-30, 1992, as "Goombay! Festival Days" in the City of Asheville.

B. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

City Manager Bean presented Finance Director Larry Fisher with the Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ended June 30, 1991. He said it is presented by the Government Finance Officers Association of the United States and Canada to government

units and public employee retirement systems whose comprehensive annual financial reports achieve the highest standards in government accounting and financial reporting. He stated that this is the 12th year that the City has received this award.

Mr. Fisher introduced Pat Leckey, Marceil Bodtker and Joe Elkins from the Accounting Division who were instrumental in helping obtain this award.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 25 KNOWN AS THE ROBERT LEWIS PROPERTY (2323 HENDERSONVILLE ROAD)**

ORDINANCE NO. 1985 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED AT 2323 HENDERSONVILLE HIGHWAY (ROBERT LEWIS PROPERTY)

Mayor Michalove opened the public hearing at 4:18 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, summarized the Standards and Services Report for the Noncontiguous Annexation of 2323 Hendersonville Road as follows:

She stated that a petition for the annexation of a noncontiguous area located at 2323 Hendersonville Highway was received on July 16, 1992, and that the property is owned by Robert D. Lewis and is occupied by the Sports Page Restaurant and Bar.

The noncontiguous area proposed for annexation meets all of the requirements of N. C. Gen. Stat. sec. 160A-58 as follows:

1. The nearest point on the proposed satellite corporate limits is not be more than three miles from the primary corporate limits of the annexing city in that the subject property is approximately .27 miles from the closest point of the existing corporate limits line.

2. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.

3. The area is situated so that the City of Asheville will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

Fire Protection - The Asheville Fire Department's investigation concluded that the property proposed for annexation is situated approximately 1.5 miles from the Skyland Volunteer Fire Department ("Skyland VFD") located on Hendersonville Road. The Asheville Fire Department is negotiating an agreement with the Skyland VFD to provide fire protection service to the property proposed for annexation on a first response basis in case of an emergency. The Asheville Fire Department and Skyland VFD have decided to base payment for these services on the amount of tax paid for the property based on the fire district tax rate. The annual compensation to the Skyland VFD, based on a rate of $.07 per $100 valuation would be equal to approximately $104.02.

Police Protection - The Asheville Police Department will provide the satellite area with the same law enforcement services that are provided within the primary corporate limits of the City of Asheville. The Police Department will furnish patrol response services to the proposed annexation area. There are no additional costs to the City of Asheville to provide law enforcement services.

Water & Sewer Services - The area proposed for annexation is presently served by a 6" public water main located along U.S. Highway 25 which is maintained by the Asheville-Buncombe Water Authority. The area proposed for annexation is also served by a public sewer line owned by Buncombe County and maintained by the Metropolitan Sewage District. There will be no additional cost to the City of Asheville to provide water or sewer services.

Street Maintenance and Street Lights - The area proposed for annexation is serviced by U.S. Highway 25 and therefore would remain the N.C. Department of Transportation's responsibility to maintain. Maintenance of private roads and lighting on private property are the owner's responsibility. The entrances to the property and the parking lot are private, and will, therefore, they will be maintained by the owner. There will be no additional cost to the City.

Solid Waste Collection - The Public Works Department reports that due to the nature of the business, the property proposed for annexation is responsible for making arrangements with a private solid waste collector for daily solid waste collection service. There will be no additional cost to the City of Asheville for this service.

The area proposed for annexation is not a subdivision or a portion thereof.

The area within the proposed satellite limits, when added to the area within all other satellite corporate limits, does not exceed 10% of the area within the primary corporate limits of the annexing city.

The proposed annexation area is approximately .42 acres. The total of the land area of all current satellite areas in the City of Asheville is approximately 11.18 acres. Upon annexation of this property, the combined land area for all satellite areas of the City of Asheville would be 11.6 acres. The total land acreage of the City of Asheville is approximately 36.12 square miles. Ten percent of the area of the city is 3.61 square miles or 2,310.40 acres.

The real property tax value of the property under consideration for annexation is $148,600. The 1992 ad valorem revenues, based on the City's tax rate of $.60 per $100.00 valuation, would be $891.60.

Based on a valuation of $148,600 at the present fire district tax rate of $.07 per $100.00 valuation, the annual compensation to the Skyland VFD would equal $104.02.

Upon inquiry of Mayor Michalove about handling the zoning of this area and the consideration of annexation at the same meeting, City Attorney Slawter stated that there is a difficult in proceeding with both at the same time because of the statutory requirements with regard to what has to be done for the zoning and what has to be done for the annexation, i.e., annexation proceedings do not go to the Planning and Zoning Commission but zoning the area does.

Mr. Ralph Bishop spoke against the annexation of this property for liquor by the drink.

Mayor Michalove closed the public hearing at 4:26 p.m.

Mayor Michalove stated that members of Council have copies of the ordinance and it will not be read.

Vice-Mayor Ellison moved for the adoption of the ordinance. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 1985 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1985. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1985 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO ANNOUNCING THE COMPLETION OF THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALFA AVENUE AND ENDING AT THE END OF THE ROADWAY, AND COUNCIL'S INTENT TO DETERMINE THE TOTAL COST OF THE AZALEA AVENUE PROJECT

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean explained that the Azalea Avenue Project has been completed at a cost of $6,484.76 and a preliminary assessment roll will now be prepared.

Mr. Robert Alexander stated some concerns about the Project completion - 1) when the City paved Azalea Avenue they did not put in any curbing and they also destroyed the curbing that was already in place when the street was paved many years ago; 2) they paved over a manhole, and 3) after they paved, they installed a solid manhole cover, not a perforated one which allows sewer gas to escape.

Mayor Michalove asked that Mr. Alexander meet with Public Works Director Jim Ewing to resolve these concerns and felt the public hearing needed to be continued until after the concerns were resolved.

Vice-Mayor Ellison moved to continue the public hearing without further advertisement until September 1, 1992, at 4:00 p.m., in the Asheville Civic Center Banquet Room. This motion was seconded by Councilwoman Field and carried unanimously.

C. PUBLIC HEARING RELATIVE TO A REQUEST FOR A VARIANCE TO ALLOW A PRIVATE STREET INSTEAD OF A PUBLIC STREET, AS REQUIRED BY THE SUBDIVISION REGULATIONS, IN HEATH RIDGE ACRES SUBDIVISION

At the request of Councilman Worley, Councilwoman Field moved to excuse Councilman Worley from discussion on this matter due to a conflict of interest, i.e., legal representation of one of the principals in the request for a variance. This motion was seconded by Councilman Moore and carried unanimously.

Mayor Michalove opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, stated that a letter had been received in the City Clerk's Office from Mr. Ed Randall, owner/developer of Heath Ridge Acres Subdivision, appealing the Planning and Zoning Commission's denial of his request for a variance from Section 26-37 (1) of the City's subdivision regulations. The variance would permit the construction of a private street serving the lots in the subdivision and allow the street to be unpaved. Mr. Randall is proposing the construction of a gravel road to serve the eight lots in the proposed subdivision.

Heath Ridge Acres was originally approved as a four lot subdivision in July of 1991. At that time, the Planning and Zoning Commission recommended and City Council granted a variance to permit the construction of a private street to serve the subdivision lots. The approval of this variance request was based in part on the fact that the street would serve only four lots. The proposed street was to be a gravel road with a 30-foot right-of-way. Upon approval of the subdivision last year, the road was partially constructed and four homes have been constructed.

In July of 1992, the Planning and Zoning Commission heard the request of Mr. Randall to resubdivide the property into eight lots. The Commission voted to recommend approval of the subdivision upon the condition that the road be constructed as a public road to State standards.

At the August 5, 1992, Planning and Zoning Commission meeting, Mr. Randall requested a variance to construct the road as a private street. The Commission unanimously denied the request for the variance. This decision was premised largely on two considerations. First, the approval of the

original variance was based partially on the fact that the street would serve only four lots. Since four lots were added to the subdivision, the Commission felt the residents would be better served by a public street constructed to State standards. Second, the Commission felt that if the variance were granted, the future residents of the subdivision could and would petition the North Carolina Department of Transportation ("NC DOT") to assume maintenance of the road by taking it into the public domain. Thus, the road would eventually be constructed to State standards at the public's expense, rather than at the petitioner's expense. The NC DOT will assume maintenance of a subdivision road, such as the one in question, if it serves four occupied homes.

NC DOT standards for subdivision streets require a minimum right-of-way of 40 feet. This would be difficult in Heath Ridge Acres, since the existing homes were sited based on the previously approved 30-foot right-of-way. Danny Tolar of the NC DOT stated that ten feet of right-of-way would have to be added to the width of the street in order to meet the minimum standards. He also stated that for a subdivision of this type, NC DOT requires a 22-foot wide roadway consisting of an 18-foot wide pavement with a 2-foot wide concrete valley curb on each side.

Mr. Randall has stated that the cost of constructing a street to NC DOT standards in this subdivision would be prohibitive. The homes in the subdivision, which are modular and average 1,100 square feet each plus a finished basement, are being marketed to first time home buyers. The average sales price is $70,000 to $75,000 per home. According to Mr. Randall, the low cost of the homes prohibits the expenditure of additional funds on road construction. Mr. Randall has drawn up a maintenance agreement which provides for the continued upkeep of the private street. The agreement places the responsibility for maintaining the street on the residents of the subdivision.

Section 26-13 of the Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and the City Council to grant variances to the requirements of the regulations. According to Section 26-13, a variance may be granted when the developer can show that the provision of the regulations "would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning Commission a departure may be made without destroying the intent" of the provision.

He said questions which the Council should address in considering the variance request include:

- What would be the impact of the variance on the subdivision?

- Would the requirement that the street be constructed as a public street place an unnecessary hardship on the developer?

- Are there topographical or other conditions peculiar to the site which justify the granting of the variance?

- If the road is constructed as a private road, who would be responsible for its long term maintenance and upkeep and would this be a burden on the responsible party?

As is the case with all variance requests, the staff neither supports nor recommends variances from the requirements established by the Asheville City Council.

There was some discussion relative to the road maintenance agreement and what exactly a "hardship" was.

Vice-Mayor Ellison asked what the cost would be to bring the road up to State standards. An estimate was received by Mr. Randall from APAC-Carolina Inc. for the road construction of $23,715.25 and Pegg Enterprises Inc. for the storm drainage system of $6,850.

Mr. W. Louis Bissette Jr., attorney representing Mr. Randall, gave background information on this particular subdivision. He stated that the cost for bringing this road up to State standards would have to be divided among the new 4 homes proposed to be built. At an additional cost of approximately $8,000 per house, first time home buyers would probably not be able to afford the homes. He spoke about the topography of the area and how the gravel road is suitable to the area and that the owners of the 4 homes already built are satisfied with the gravel road. He urged the Council to grant the variance requested.

Mr. Randall spoke in favor of the variance stating that he is trying to provide homes for the community at a price people can afford. He stated that if the variance is not granted, he could not developer the lower half of the subdivision and it would have to remain vacant.

Upon inquiry of Councilwoman Field relative to road access of two of the proposed lots, it was stated that there are deeded rights-of-way for those lots.

Mr. Elizabeth Graham, member of the Planning and Zoning Commission, echoed the comments of Mr. Nicholson about the reasons why the Planning & Zoning Commission denied the variance.

Upon inquiry of Councilman Swicegood, Mr. Randall stated that he only obtained one estimate for bringing the road up to State standards.

Mayor Michalove closed the public hearing at 5:15 p.m.

Vice-Mayor Ellison moved to deny the variance requested. This motion was seconded by Councilman Moore and carried unanimously.

D. PUBLIC HEARING RELATIVE TO A PARTIAL REZONING OF 8 CLAIRMONT AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT, EXCEPT FOR A 10-FOOT STRIP TO REMAIN R-3 RESIDENTIAL DISTRICT WHICH STRIP RUNS PARALLEL WITH THE SOUTHERN PROPERTY LINE OF THE LOT

ORDINANCE NO. 1986 - AN ORDINANCE AMENDING ZONING OF 8 CLAIRMONT AVENUE

Mayor Michalove opened the public hearing at 5:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice, Urban Planner II, stated that the Asheville Planning and Zoning Commission on June 3, 1992, received and recommended approval (4-3 vote) of partial rezoning of 8 Clairmont Avenue (PIN # 9740-18-41-5831) from R-3 Residential District to CH Commercial Highway District. The property in question is located one block east of Merrimon Avenue just north of Gracelyn Road. The current land use is occupied residential structure. Commercial access across the proposed 10-foot strip remaining R-3 along with commercial building and/or parking would be prohibited. Therefore, commercial access to the proposed split zoning would be prohibited by way of Clairmont Avenue.

Ms. Alberice then presented Council with a letter from Carole Williams, owner and resident of 7 Clairmont Avenue, opposing the proposed rezoning.

Mr. Larry McDevitt, attorney representing Mildred E. Reynolds, owner of 8 Clairmont Avenue, briefed the Council on the background of Citizens Hardware and the events leading up to this request for a rezoning. He stated that

Citizens Hardware has approached Mrs. Reynolds with an offer to purchase her property if the property were rezoned CH Commercial Highway. He stated that this is the last lot Citizens Hardware needs in order to complete their plan and expand their building. He stated several reasons why the Council should rezone this piece of property. He spoke of how Mr. Jim Groce, owner of Citizens Hardware, has tried to make his business grow in a sound, responsible way.

Mr. George Kaltsunis, owner of property in the area, spoke in favor of the proposed rezoning.

Mr. Kevin McDonald, 11 Clairmont Avenue, spoke in support of the proposed rezoning.

Mr. Jim Groce urged the Council to rezone this property which would enable him to store all of his goods under one roof and continue with the development of his property. He said he would be willing to work with the Tree/Greenway Commission, which Councilwoman Field suggested.

Ms. Harriett Winner, member of the Planning and Zoning Commission, stated her reasons for voting against this proposed rezoning. Her concerns were for the neighborhood and the investment people had in the neighborhood.

Ms. Elizabeth Graham, member of the Planning and Zoning Commission, stated her reasons for voting in favor of this proposed rezoning. She felt this business could expand and it might be better to have this business expand in the area than to leave the area zoned R-3 which opens it up to all different kinds of development.

Mayor Michalove closed the public hearing at 5:55 p.m.

Mayor Michalove stated that members of Council have been previously furnished with copies of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1986. This motion was seconded by Councilman Swicegood.

On a roll call vote of 5-1, with Councilman Moore voting "no", Ordinance No. 1986 passed on its first reading.

Councilman Moore felt that this rezoning constitutes encroachment on an established residential neighborhood.

Councilwoman Field stated the urgency of getting a unified development ordinance in place in order to give guidance on these type issues.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1986. This motion was seconded by Councilman Swicegood and carried unanimously.

On a roll call vote of 5-1, with Councilman Moore voting "no", Ordinance No. 1986 passed on its second reading.

E. PUBLIC HEARING RELATIVE TO GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENT POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Michalove announced that the public hearing relative to group development/planned unit development policy issue for the unified development ordinance would be opened and postponed until Tuesday, September 8, 1992, at 7:00 p.m. in the Council Chamber on the second floor of the City Hall Building. The reason for this continuance is because a number of individuals and groups did not receive the information far enough in advance to formulate their comments.

At this time (6:07 p.m.), it was the consensus of Council to take a five minute recess.

III. OLD BUSINESS:

A. SECOND READING OF ORDINANCE NO. 1980, AN ORDINANCE AMENDING ZONING OF FIVE PROPERTIES LOCATED ON REED STREET

Mayor Michalove stated that the public hearing and first reading of this ordinance was held on July 28, 1992.

Councilman Worley moved to the rezoning of the five properties on Reed Street except for a 2-foot strip along Reed Street to remain zoned R-3 Residential District. It was his understanding that this would create actually a 12-foot buffer zone (2 feet of R-3 zoning and 10 feet being the required buffer in the CH zone). This motion was seconded by Councilman Moore.

Ms. Carol Alberice explained the buffering requirements and stated that if Council leaves the 2-foot strip residential, there would have to be a 20-foot buffer starting at the commercial side of the residential strip, pursuant to the ordinance. She explained that if you zone the five properties CH Commercial Highway as requested, the petitioners would have to put in a landscape strip of 1 street tree per every 40 feet.

Councilman Worley explained that he was trying to make the petitioners bound to provide a buffering for the residential area, but did not intend to take away a row of their proposed parking.

Due to a misunderstanding of buffering requirements, Councilman Worley withdrew his motion. Councilman Moore then withdrew his second.

Mayor Michalove stated that members of Council have been previously furnished with copies of the ordinance and it would not be read.

On a roll call vote of 4-2, with Councilman Moore and Councilwoman Field voting "no", Ordinance No. 1980 passed on its second reading.

Mayor Michalove stated that the third and final reading of this ordinance would be postponed until September 15, 1992, at the request of Councilman Peterson, who asked to be present at the final reading.

B. THIRD READING OF ORDINANCE NO. 1981, AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING PARKING PENALTIES

Mayor Michalove stated that Ordinance No. 1981 passed on its first and second reading on August 11, 1992.

Mayor Michalove stated that members of Council have been previously furnished with copies of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 1981 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 110

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR WEST PARK SUBDIVISION

Ms. Mary Weber, Urban Planner, stated that the West Park Subdivision is located at 265 Smoky Park Highway between Skyland Oldsmobile and the Holiday Inn. The request is to subdivide a 4.91 acre tract into three lots (2.52 acres, 1.22 acres, and 1.17 acres) for commercial use. The site and all adjacent properties lie within the Commercial Service zoning district. The subdivision will be accessed by a new driveway off of the Smoky Park Highway. The site was very steep and has required an extensive amount of

grading. The owner has submitted a letter of credit for $47,000 to guarantee the completion of the public improvements, such as water and sewer, curb and gutter, storm drainage, and paving, after approval of the final plat.

The proposed subdivision meets the requirements of the Asheville zoning ordinance and the subdivision regulations. In addition, all utilities and the Fire Department have approved availability of services to the site. At their March 4, 1992, meeting, the Asheville Planning and Zoning Commission voted unanimously to recommend approval of the West Park Subdivision.

Councilman Moore moved for the approval of the final plat of West Park Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

V. CONSENT:

A. **MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, RELATIVE TO ASSIGNING ZONING CLASSIFICATIONS TO THE HAW CREEK II ANNEXATION AREA.**

B. **MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, RELATIVE TO (A) EXPANSION OF EXTRA-TERRITORIAL JURISDICTION (ETJ) IN THE HAW CREEK AREA AND (B) ASSIGNING ZONING CLASSIFICATIONS TO THE EXPANDED ETJ.**

C. **RESOLUTION NO. 92-115 - RESOLUTION AUTHORIZING SUBMISSION OF AN ASHEVILLE REGIONAL HOUSING CONSORTIUM APPLICATION TO THE NORTH CAROLINA DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT, DIVISION OF COMMUNITY ASSISTANCE, FOR HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR FISCAL YEAR 1992-93**

Summary: The City of Asheville, as Lead Entity of the Asheville Regional Housing Consortium, will make application for the amount of $1,000,000 through the Division of Community Assistance's HOME Investment Partnerships Program for 1992 funds. These funds will be disbursed to Member Governments that have submitted applications involving project-eligible activities. All program funds will benefit families with incomes less than 80% of their respective area's median income. Following is a list of the Consortium Member Government and the amount of funds applied for as approved by the Board of Directors: Asheville - $304,600;

Buncombe County - $329,000; Henderson County - $184,000; Hendersonville - $60,800; and Woodfin - $121,600.

RESOLUTION BOOK NO. 19 AT PAGE 248

D. **RESOLUTION NO. 92-116 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH NEIGHBORHOOD HOUSING SERVICES OF AMERICA INC. TO AUTHORIZE THE PURCHASE OF MORTGAGES HELD BY NEIGHBORHOOD HOUSING SERVICES OF ASHEVILLE, NORTH CAROLINA, INC.**

Summary: This action will enable Neighborhood Housing Services of Asheville to sell mortgage notes on the secondary mortgage market to raise additional capital for their revolving loan fund. City authorization is required since the notes were made with City Community Development Block Grant funds.

RESOLUTION BOOK NO. 19 AT PAGE 250

E. **RESOLUTION NO. 92-117 - RESOLUTION CALLING FOR A PUBLIC HEARING FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 37 ADAMS STREET**

Summary: On March 22, 1990, the Inspections Division inspected 37 Adams Street and found it was unfit for human habitation. Inspections revealed that part of the roof had collapsed and was damaged by fire; that part of the floor system had collapsed; and that the structure was dangerous to enter. A hearing was held on July 31, 1991, and the owner later ordered to demolish. The owner has failed to take any action at this time.

RESOLUTION BOOK NO. 19 AT PAGE 253

F. **RESOLUTION NO. 92-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS FOR LIABILITY, PROPERTY AND MEDICAL INSURANCE PROGRAMS**

Summary: Authorization for City Manager to sign those insurance contracts necessary to effect renewals of the City's liability, property and medical programs effective September 1, 1992.

RESOLUTION BOOK NO. 19 AT PAGE 255

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. REQUEST BY WAYNE WARREN RELATIVE TO LAW ENFORCEMENT SUPPLEMENTAL RETIREMENT

Mr. Wayne Warren, retired police officer, asked the City Council to adopt a resolution which would end the practice of taking the State pay raise out of the City's check.

Mayor Michalove stated that this item would be placed on an upcoming Pre-Council agenda in order for the Council to discuss the information received from the City Manager on this matter.

B. CLAIMS

City Manager Bean said that the City received the following claims during the week of August 3-7, 1992 - Betty Hasker (Water) and Lance Mulvihill (Water).

He said the City received the following claims during the week of August 10-14, 1992 - Betty Pruett (Streets) and Lewis Barnwell (Water).

He said these claims have been referred to the appropriate insurers for investigation.

C. RALPH BISHOP

Mr. Ralph Bishop commented on the City annexing properties in the County in order to sell liquor by the drink.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:45 p.m.

William F. Holcombe, Jr. H. M. Michalove

CITY CLERK MAYOR

Tuesday - September 1, 1992 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Chris J. Peterson

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the August 25, 1992, City Council minutes as submitted.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 13-19, 1992, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Michalove proclaimed the week of September 13-19, 1992, as "Minority Enterprise Development Week" in the City of Asheville. He presented it to Dr. Charles Lawrence, President of Black Business and Professional League, who gave a brief overview of all activities taking place during that week.

B. PROCLAMATION PROCLAIMING FRIDAY, SEPTEMBER 11, 1992, AS "NATIONAL FEDERATION SECTION III DAY"

Mayor Michalove proclaimed Friday, September 11, 1992, as "National Federation Section III Day" in the City of Asheville.

C. PROCLAMATION PROCLAIMING SEPTEMBER 17-23, 1992, AS "CONSTITUTION WEEK"

Mayor Michalove proclaimed the week of September 17-23, 1992, as "Constitution Week" in the City of Asheville. He presented it to Ms. Ruth Parsons.

D. PROCLAMATION PROCLAIMING SEPTEMBER 10-11, 1992, AS "NORTH CAROLINA MINORITY/WOMEN BUSINESS ENTERPRISE COORDINATOR'S NETWORK DAYS"

Mayor Michalove proclaimed September 10-11, 1992, as "North Carolina Minority/Women Business Enterprise Coordinator's Network Days." He presented the proclamation to Ms. Marilyn Bass who outlined the activities which will take place.

E. RESOLUTION NO. 92-119 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CAROL HENSLEY

Mayor Michalove read the resolution stating that Carol Hensley has been an employee for 26 years and has requested retirement from her position as Deputy City Clerk. He expressed City Council's appreciation to Carol for her service to the City of Asheville and its citizens.

Councilman Moore moved for the adoption of Resolution No. 92-119. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 256

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING RELATIVE TO ANNOUNCING THE COMPLETION OF THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY, AND COUNCIL'S INTENT TO DETERMINE THE TOTAL COST OF THE AZALEA AVENUE PROJECT

RESOLUTION NO. 92-120 - RESOLUTION FINDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY COMPLETED AND ASSESSING THE TOTAL COST

Mayor Michalove stated that this public hearing was continued from August 25, 1992, due to some concerns mentioned by Mr. Bob Alexander, a property owner in the area.

City Manager Bean said that the total cost of the Azalea Avenue Project was $6,484.76 and he then gave a brief report of the concerns of Mr. Alexander:

1. A manhole was paved over - At the time of resurfacing, it was more expeditious to simply pave the street rather than adjusting the manholes prior to final grade being laid on the street. The manhole is on the schedule to be raised to grade. There will be no additional charge for this.

2. Manhole lids were changed - Metropolitan Sewerage District ("MSD") is in complete control of the structure design and maintenance of all sanitary sewers. MSD changed the lids from perforated to solid lids without informing anyone of the change. Once the City raises the covered manhole, that lid will also be changed to a non-perforated cover. MSD is doing this in an attempt to reduce inflow into the sanitary system, which they control.

3. Mr. Alexander said a curb had been destroyed when a water line was installed - that curb was a small barrier of asphalt on the edge of the road placed there to curtail stormwater from draining onto the properties on the low side of the road. This would have created a water problem. During the resurfacing of Azalea, some grade changes were made in anticipation that the curb would no longer be necessary. Public Works will monitor the drainage in the area and if the low side curb is necessary to control drainage, Public Works will install that curb at no cost to the property owner.

4. Mr. Alexander said he did not know he was not getting curb and gutter - All residents on Azalea Avenue were given the detailed estimate for constructing that portion of Azalea Avenue which clearly showed only road paving for the project.

Mayor Michalove closed the public hearing at 4:32 p.m.

Mayor Michalove said members of Council have been furnished with copies of the resolution and it will not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-120. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 257

RESOLUTION NO. 92-121 - RESOLUTION DIRECTING THE CITY MANAGER TO PREPARE A PRELIMINARY ASSESSMENT ROLL REGARDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Mayor Michalove said members of Council have been furnished with copies of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution No. 92-121. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 259

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1985, AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED AT 2323 HENDERSONVILLE HIGHWAY (ROBERT LEWIS PROPERTY)

Mayor Michalove said the public hearing on this item was held on August 25, 1992. The ordinance passed on its first and second reading also on that date.

Mr. Ralph Bishop commented about the City annexing in Buncombe County for liquor sales.

On a roll call vote of 6-0, Ordinance No. 1985 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 118

B. THIRD READING OF ORDINANCE NO. 1986, AN ORDINANCE AMENDING ZONING OF 8 CLAIRMONT AVENUE

Mayor Michalove said the public hearing on its item was held on August 25, 1992. The ordinance passed on its first and second reading also on that date.

On a roll call vote of 6-0, Ordinance No. 1986 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 121

IV. NEW BUSINESS:

A. SEMI-ANNUAL REPORT ON THE 2010 PLAN

Dr. Albert Anderson, Chairman of the Planning and Zoning Commission, highlighted the Summer 1992 Monitoring Report of the 2010 Plan.

Vice-Mayor Ellison suggested the following four items be inserted in a supplement to the 2010 Plan:

1. In the Asheville City School Board section - The creation of a new learning center.

2. In the Asheville City School Board section - The communication aspect between the public and the Asheville School Board.

3. In the Historic Resources Commission section - Possible Eagle/Market Street Historic District.

4. In the Police Department section - The addition of 15 police officers which includes a new task force to provide greater assistance to the Housing Authority and people living in public housing.

Upon inquiry of Councilwoman Field, Ms. Patty Tallerday, Senior Planner, stated that the next round of hearings on the 2010 Plan would start sometime in 1994.

B. FINAL PLAT APPROVAL OF OAKWOOD SUBDIVISION

Ms. Mary Weber, Urban Planner, stated that on November 6, 1992, the Planning and Zoning Commission approved the final plat of Oakwood Subdivision. She stated that Oakwood Subdivision is located off of Wood Avenue in Oakley. This is a Habitat for Humanity project which will consist of 21 lots on a 6.3 acre tract. The lots vary in size from 9,260 square feet to 19,477 square feet. The site and all adjacent properties lie within the R-3 medium density residential zoning district. The site is wooded and has gently rolling terrain. Infrastructure improvements have been installed, including a new street.

Ms. Lois Miller on Cedar Street spoke about the traffic congestion already in that area.

Mayor Michalove stated that the Public Works Department will be addressing the traffic concerns.

Councilwoman Field moved for the approval of the final plat of Oakwood Subdivision. This motion was seconded by Councilman Moore and carried unanimously.

C. ORDINANCE NO. 1987 - BUDGET AMENDMENT RELATIVE TO APPROPRIATIONS FOR CAPITAL PROJECTS

City Manager Bean stated that this budget amendment is to transfer 1992/93 appropriations for approved capital projects from the General Capital Fund to the General Projects Fund.

Mayor Michalove stated that members of Council have been furnished with copies of the ordinance and it will not be read.

Councilman Moore moved for the adoption of Ordinance No. 1987. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 1987 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 123

V. CONSENT AGENDA:

A. MOTION SETTING PUBLIC HEARING FOR SEPTEMBER 15, 1992, RELATIVE TO CHANGING A STREET NAME IN OAKWOOD SUBDIVISION

Summary: A request has been made to change the name of the street in Oakwood Subdivision from Happy Road to Homewood Drive. Although Happy Road has never been used as an address, it appears on the final plat of the existing homes and must be formally changed in order to meet the requirements of the Asheville subdivision regulations.

B. RESOLUTION NO. 92-122 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND VOLUNTEER FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICE TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 2323 HENDERSONVILLE ROAD (ROBERT LEWIS PROPERTY)

Summary: The City of Asheville Fire Department has determined that the most efficient fire protection service to the area proposed for annexation can be provided by the Skyland Volunteer Fire Department.

RESOLUTION BOOK NO. 19 AT PAGE 261

C. RESOLUTION NO. 92-123 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Summary: The term of Richard A. Wood expires on September 30, 1992. This resolution will appoint Charles R. Worley for a term of 3 years, term expiring September 30, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 265

D. RESOLUTION NO. 92-124 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: There is a vacancy on the Historic Resources Commission. This resolution will appoint Millard "Mitty" Owens for a 3 year term, term expiring July 1, 1995, or until is successor has been duly appointed and qualified. This resolution will also appoint Dr. Pamela Nickless, effective July 1, 1993 (or whenever the next City vacancy occurs), to serve a 3 year term, term expiring July 1, 1996, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 266

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

At this time (5:00 p.m.), the Council recessed until 7:00 p.m.

VI. OTHER BUSINESS:

A. PUBLIC HEARING REGARDING THE ESTABLISHMENT OF A STORMWATER DRAINAGE UTILITY

Mayor Michalove opened the public hearing at 7:02 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. George Jensen, Chairman of the Stormwater Advisory Committee, spoke about the current stormwater management in Asheville. By use of a slide program, he spoke about flooding of rivers and streams, drainage into inlets and sewer pipes, erosion and water quality. He said that according to inventory results, 10% of the sewers were found to be performing as designed and the remaining 90% were in some state of disrepair. He said 15% didn't work at all. The inventory also indicated drainage or erosion problems due to a lack of sewers were at a rate of about 20 problems per square mile.

In 1989 the City Council created the Stormwater Advisory Committee to provide a forum for feedback from the community and from groups active in the community on the topic of stormwater management. The Committee would like to present the City Council with four recommendations:

1. The City should act now to begin an expanded stormwater management program. The federal government, under the Clean Water Act, will

require the City and Buncombe County to implement stormwater quantity and quality management programs by about 1995.

2. The stormwater management program should be funded through user fees. A stormwater utility where properties are assessed a stormwater fee according to their runoff potential provides a fair way of allocating costs to those who are most responsible for the additional runoff.

3. The stormwater utility should operate as an enterprise fund within the City government. The Public Works Department would execute the program as part of the City's infrastructure management.

4. Stormwater fees should be set at a rate that would be high enough to cover the program costs in the foreseeable future.

The Committee looked at several funding options for the stormwater program. The two obvious choices were a stormwater utility funded by user fees and a tax increase where the City would pay for the program out of the general fund. Disposing of stormwater runoff is a public service, much like the disposal of wastewater. The difference is that up until now the City has provided this service with limited funding from the general tax revenues and no direct billing for the service. Under the stormwater utility, all properties within the City that generate stormwater runoff (that is, all properties) would participate in the funding of the program. All properties would be assessed a fee under the stormwater utility program, just as they now pay for water and wastewater disposal.

A stormwater utility fee is a fair allocation of costs because the assessment charged to each property would be proportional to the runoff produced. For residential properties, the rate would be a flat $5.00 per month per dwelling unit. Non-residential properties would pay proportionately higher rates, depending on the ground cover of those properties.

One of the most important advantages of the stormwater utility is that the revenue will be used only for the stormwater management program. The funds will not be in the general pool for use on other City needs and stormwater improvements will not be diminished by competing interests for the City's general fund.

Over 400 properties are tax-exempt and would not contribute if the program were funded through taxes. These parcels represent between 5-10% of stormwater utility billings, which would otherwise be distributed to the rest of the City. Under a tax increase, the fee for stormwater services would be based on the value of the property, not on the runoff potential.

Mayor Michalove said that any written comments will be considered up until Noon on September 15, 1992.

Mr. Rick Coleman, representing R.L. Coleman & Company, spoke in opposition of the stormwater utility which would be funded wholly by the collection of $4.3 million annually from the residences, businesses, schools and churches located in the City limits.

Mr. John Broadbooks stated that with regard to the setting of fees, it was unclear whether or not the extraordinary impact of development on steep mountainsides had been taken into account. He felt the fee would be an undue burden imposed on large size residential lots. He was concerned about the City using funds out of the general tax revenue. He hoped this would not develop into an authority or a metropolitan district because they seem to be insulated from the taxpayers by several layers of elected or appointed officials.

Mr. Mike Moser, representing the Chamber of Commerce, stated that in 1989 the Chamber opposed the establishment of a utility district for the stormwater system and stated that the implementation of the user fee was premature. It also went on record that funding for the completion of the inventory and development of a master plan for the stormwater system should be derived from existing revenue sources of the City of Asheville. He said that the Issues Committee of the Chamber is again evaluating this situation to see what has changed since 1989 and what effect this might have on our existing businesses and industry. He asked that the Council keep the Chamber informed and come to them for their input. He had several questions relative to the water from the stormwater drainage system. He hoped the Council would wait until closer to 1995 to put this program into effect.

Mr. George Beverly, Beverly-Hanks and Associates, stated objections to businesses and industries who installed their own stormwater system being taxed for this. He felt that this fee will hurt the chance to attract new businesses and industries to this area.

HOYAM

Mr. Wayne Utley, representing the Manufacturers Executive Association, stated that the City might be premature in laying down guidelines that won't become effective until 1995. He stated that the tax was unfair to newer industries who have already implemented a number of stormwater drainage facilities. He felt that this program should not go into effect until rulings for "credits" can be included in the program plan. He echoed Mr. Beverly's concerns about attracting new businesses to this area. He hoped that the Stormwater Advisory Committee could be expanded to include potentially higher rate taxpayers so that their views could also be heard.

Ms. Karen Cragnolin, Executive Director of RiverLink, stated that all the water flows into the French Broad River and hoped that the Council keeps in mind the future drinking water source for Asheville and Buncombe County.

Mayor Michalove closed the public hearing at 7:31 p.m.

Mayor Michalove again stated that written comments are welcome and will be considered up until Noon on September 15, 1992.

B. CLAIMS

City Manager Bean stated that the following claims have been received by the City during the week of August 17-21, 1992: Tim Reeves (Streets) and Southern Bell (Water).

He stated that the following claims were received by the City during the week of August 24-28, 1992: Susan Bowen (Civic Center), Mary Johnson (Streets), Edward Jordan (Street), Dora White (Water), Dee Green (Inspections) and Dino Zourzoukis (Streets).

He said that these claims have been referred to the appropriate insurers for investigation.

C. LAWSUIT

City Manager Bean stated that the City received a lawsuit on August 26, 1992, from George and Harriet Miseyko (complaint for recovery of damages for taking of land).

He stated that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 7:35 p.m.

William D. Wolcott, Jr.
CITY CLERK

W. Mu. Michalove
MAYOR

Tuesday - September 8, 1992 - 7:00 p.m.

Special Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison and Councilman Chris J. Peterson

PUBLIC HEARING REGARDING GROUP DEVELOPMENT/PLANNED UNIT DEVELOPMENT POLICY FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Michalove opened the public hearing at 7:00 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove explained that written comments on this matter will be received until Noon on Friday, September 11, 1992, in the City Manager's Office or the Planning Department.

Ms. Carolyn Wallace, representing the Citizens for Quality Development ("CQD"), summarized the following recommendations:

1. Do not remove the Planning & Zoning Commission ("P&Z") from the review process; instead, reduce permitting time by having Council review projects only if there is an appeal of P&Z's decision.

2. Thresholds for determining group development should remain at current levels for now.

3. The UDO development review should include strong standards for:

   A. Impacts on scenic beauty, natural resources or environmentally fragile areas.
   B. Impacts on traffic patterns, street and utility systems.
   C. Impacts on increased densities on services like schools.
   D. Compatibility with surrounding neighborhoods or areas, both in terms of project uses and scale.

E. Compatibility with Asheville's 2010 Plan, future Small Area Plans, and future plans for affordable housing, handicapped accessibility, and multi-modal transportation.

4. Begin developing Small Area Plans and Small Area Planning Councils which can speed up the permitting process while addressing neighborhood and environmental issues.

5. Once the standards and processes are established, Planning staff and Inspections staff should complete and implement a "Users Guide" for citizens and developers.

6. Begin twice yearly joint meetings of City Council, Planning staff, and appropriate boards and commissions (such as P&Z and Board of Adjustment) to review variances given in the last six months, and to coordinate recommended strategy for land use or planning issues for the coming year.

Ms. Myra Fuller, City resident representing the Coalition of Asheville, endorsed the CQD's recommendations. She said the Coalition strongly opposes P&Z's being taken out of the review process and fells City Council should only be involved if there is an appeal of the P&Z's decision. She encouraged the adoption of a Small Area Plan for districts.

Ms. Allison Arnold, who lives in Weaverville, but representing the Asheville Tree/Greenway Commission, spoke against raising the thresholds for determining group developments and overall endorsed the CQD's recommendation.

Mr. Max Haner, City resident, stated that having served on two UDO subcommittees, he feels the UDO's review process goal is to eliminate or minimize as much as possible the subjectivity part of the application review process. He supported reducing the time of review. He felt removing P&Z from the review process is premature to the UDO process and felt that the Planning staff should have more latitude in reviewing projects.

Mr. Don Noakley, commercial industrial real estate broker in the City, but not City resident, stated that the group development review process needed to be streamlined and felt the only way to accomplish this was to cut down on some of the requirements. He recommended that the Council up the threshold for review on multi-family residential structures containing 3 or more units to possibly 24 or more

units if the area was zoned correctly and if all of the other regulatory requirements were met. He felt the process could be streamlined if small projects went through at the lowest level, which would be the Planning staff.

Ms. Betty Burr, City resident, suggested that whenever a zoning variance is requested, the applicant should be made aware that they must also bring up the entire property up to the latest standards and Codes.

Mr. Bob Selby, who is not a City resident but represents the Council of Independent Business Owners ("CIBO"), presented a slide presentation which showed the trend in Asheville shows the cost of building in the City goes up while the number of residential and commercial construction goes down. He said CIBO's recommendation is that existing Planning staff be given the authority to approve projects and if there are any changes, that P&Z and City Council become involved.

Mr. Jerry Sternberg, City resident, spoke about a number of problems he has encountered in the length of time the group development process currently takes. He stated that under the present system there are no mechanics for putting up speculative buildings.

Mr. George Morosani, industrial realtor in Asheville, but County resident, felt that if a piece of property is properly zoned and meets all State and City requirements, the applicant should be able to continue with their plans without having to go through the P&Z and City Council processes which delays the project for several months. He also echoed Mr. Noakley's comments relative to raising the threshold on multi-family residential structures containing 3 or more units.

Mr. Rich Mathews, City resident, was concerned about setting a threshold for determining whom should review group developments, rather than evaluating each project individually with specific criteria. He encouraged the Council to work with the City Manager to adequately train the staff of Inspections, Planning and Zoning.

Ms. Hazel Fobes, City resident, endorsed CQD's recommendations. She recommended the new standards be stricter and that the public be given an opportunity to review the standards before their adoption. She felt that whenever a development is to take place that a notice be placed in the City Works (in sufficient time for responses) informing neighboring property owners and the general public. She asked that P&Z notices also appear in City Works.

Mr. Mike Plemmons, representing CIBO, but County resident, appreciated City Council's efforts to speed up the group development process and trusts the efforts will eliminate the discretionary and subjective parts of this process. He looks forward to the outcome and future growth of the City.

Ms. Meg MacLeod, City resident, read a letter from David and Marsha Bate, also City residents. She said they were extremely concerned over any changes affecting development before the UDO ordinance is fully articulated; they believe that P&Z should remain importantly involved in the process of permitting; they are in favor of the development of Small Area Planning Councils; and they are absolutely and unalterably opposed to any measures which increase allowable density, allowable building size, or allowable number of uses of a structure at this time.

Mayor Michalove again stated that any written comments will be received until Noon, Friday, September 11, 1992, on this issue.

Mayor Michalove closed the public hearing at 8:00 p.m. and adjourned the meeting.

Marian S. Holcomb
City Clerk

H. M. Michalove
Mayor

Tuesday - September 15, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore; Chris J. Peterson; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager Charles W. Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: City Manager Douglas O. Bean

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the September 1, 1992, and September 8, 1992, City Council minutes as submitted.

I. NEW BUSINESS:

A. REPORT FROM ELIZABETH TAYLOR, BUNCOMBE COUNTY TAX COLLECTOR

Ms. Elizabeth C. Taylor, Tax Collector, summarized the final settlement statement of taxes for August, 1992. She reviewed the following figures:

Collections for August 1992		Uncollected	
1983-89	$ 71,006.81	3,010,304.57	99.13%
1990	93,103.99	1,895,649.69	97.29%
1991	267,458.84	3,299,192.83	95.49%

The above figures reflect gross collections for the month of August 1992.

1992

Levy	$67,655,526.19		
Coll:	7,504.34	.01%	
		County	5,559.18
		Asheville	1,945.16
		Woodfin	-0-
UnColl:	67,648,021.85	99.99%	

The percentage collected last year as of August 31, 1991 - .59%

The percentage collected this year as of September 15, 1992 - 2.98%

Ms. Taylor stated that once House Bill 20 goes into effect, it will improve collections on personal property (i.e., some type of procedure letting the license tag office know that the person had not paid their property taxes and a tag for their automobile will not be issued). She said that if the County will fund a computer and one more person, they would be able to have a station at the license tag office allowing people to pay their taxes on the spot, thus allowing them to renew their license.

Upon inquiry of Councilman Swicegood, Ms. Taylor stated that the Pack Plaza taxes for 1990 and 1991 are still under appeal in the Courts and have not been paid.

In response to Councilman Peterson, Ms. Taylor felt that a larger facility with a drive-up window would help collections.

Mayor Michalove asked that Ms. Taylor provide him with information relative to space requirements and he would send a letter to the County Commissioners and suggest the larger facilities, if it would be financially feasible.

Vice-Mayor Moore and Councilman Worley suggested the use of the City Works page as a means for notifying the public about the importance of paying property taxes, the methods you can pay and ways to avoid late fees. They suggested Ms. Taylor provide City staff with some information on this issue so that it can be inserted in the City Works.

B. FINAL PLAT APPROVAL OF HEATH RIDGE ACRES SUBDIVISION POSTPONED AT THE REQUEST OF PLANNING STAFF

II. PROCLAMATIONS:

A. PROCLAMATION ANNOUNCING THE TENTH ANNIVERSARY KICKOFF CELEBRATION OF MAGIC COMMUNITY GARDENS

Mayor Michalove announced the Tenth Anniversary Kickoff Celebration of MAGIC Community Gardens on Friday, September 25, 1992, at 7:30 p.m. at Jubilee! on Wall Street. He presented the proclamation to Ms. Barbara Hightower, Development Coordinator, who spoke about some activities that will be taking place.

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1980, AN ORDINANCE AMENDING ZONING OF FIVE PROPERTIES LOCATED ON REED STREET

Mayor Michalove stated that this ordinance passed on its first reading on July 28, 1992, and on its second reading on August 25, 1992.

On a roll call vote of 5-2, with Councilman Moore and Councilwoman Field voting "no", Ordinance No. 1980 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 108

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 37 ADAMS STREET

ORDINANCE NO. 1988 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLING KNOWN AS 37 ADAMS STREET, ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:26 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Assistant Director of Inspections Jeff Trantham stated that on March 22, 1990, the Inspections Division inspected 37 Adams Street and found it was unfit for human habitation. Inspections revealed that part of the roof had collapsed and was damaged by fire; that part of the floor system had collapsed; and that the structure was dangerous to enter. A hearing was held on July 31, 1991, and the owner was later ordered to demolish. The owner has failed to take any action. The current value of the house is $10,800 and the land is valued at $3,600. The estimated cost to tear the house down is $2,500-$3,500, depending if asbestos is found.

Mr. Trantham showed a short video showing the state of the house and stated that Habitat for Humanity is not interested in rehabilitation of the house. The Inspections Division has not yet heard from Mountain Neighborhood Housing and would suggest postponing the final reading of the ordinance until September 29 giving Mountain Neighborhood Housing an opportunity to respond.

Upon inquiry of Councilman Swicegood, there was some discussion as to the length of time a house is first condemned to the actual demolition of the house.

Mayor Michalove closed the public hearing at 4:33 p.m.

Mayor Michalove stated that members of Council had been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1988 with the understanding that as soon as demolition occurs, the City immediately start the process which would enable it to be reimbursed back for the cost of demolition. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1988 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1988. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1988 passed on its second reading.

B. PUBLIC HEARING RELATIVE TO CHANGING A STREET NAME IN OAKWOOD SUBDIVISION FROM HAPPY ROAD TO HOMEWOOD DRIVE

RESOLUTION NO. 92-125 - RESOLUTION CHANGING THE NAME OF HAPPY ROAD TO HOMEWOOD DRIVE

Mayor Michalove opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Mary Weber, Urban Planner, stated that on September 1, 1992, the City Council approved the final plat of Oakwood Subdivision. A request has been made to change the name of the street from Happy Road to Homewood Drive. Although Happy Road has never been used as an address, it appears on the final plat of the existing homes and must be formally changed in order to meet the requirements of the Asheville Subdivision Regulations.

Mayor Michalove closed the public hearing at 4:38 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 92-125. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 267

C. PUBLIC HEARING RELATIVE TO ASSIGNING ZONING CLASSIFICATIONS TO THE NEW HAW CREEK II ANNEXATION AREA

ORDINANCE NO. 1989 - AN ORDINANCE PROVIDING FOR THE ZONING FOR THE HAW CREEK II ANNEXATION AREA

Mayor Michalove opened the public hearing at 4:39 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Executive Assistant in the Planning Department, stated that on June 30, 1992, the annexation of the Haw Creek II area became effective. The North Carolina General Statutes specifies that when a municipality completes its annexation process, if it has a zoning ordinance in effect, the annexed area must also be zoned.

He said that at its regular meeting on August 5, 1992, the Planning and Zoning Commission voted to recommend that the Haw Creek area be zoned. The specific recommendations were to assign a combination of R-1 and R-2 Residential Districts in the area. The Planning and Zoning Commission's recommendations included both initial zoning of property in the annexed area as well as rezoning of property which was included in the original extraterritorial jurisdiction area in the Haw Creek Valley.

Mayor Michalove closed the public hearing at 4:48 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1989. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1989 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1989. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1989 passed on its second reading.

D. PUBLIC HEARING RELATIVE TO (A) EXPANSION OF EXTRATERRITORIAL JURISDICTION (ETJ) IN THE HAW CREEK AREA AND (B) ASSIGNING ZONING CLASSIFICATIONS TO THE EXPANDED ETJ

ORDINANCE NO. 1990 - ORDINANCE AMENDING SECTION 30-1-3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (TERRITORIAL AND EXTRATERRITORIAL JURISDICTION OF ZONING ORDINANCE)

Mayor Michalove opened the public hearing at 4:50 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Executive Assistant in the Planning Department, said that with the annexation of the Haw Creek II area, the City's zoning jurisdiction in the Haw Creek Valley encompassed approximately 90% of the valley region. Following the Planning and Zoning Commission's direction and at the request of valley residents, staff studied the possibility of expanding the ETJ. This study resulted in a recommendation to expand the ETJ into the upper region of the valley and to the slopes bordering the valley.

At its regular meeting on August 5, 1992, the Planning and Zoning Commission recommended that the City Council expand the ETJ and to assign a combination of R-1 and R-2 Residential Districts.

There was some discussion relative to whether the Ridge Law would apply and Mr. Emrick offered to prepare a report regarding this issue which would be sent to Council prior to the third reading of this ordinance.

Mayor Michalove closed the public hearing at 4:51 p.m.

Mayor Michalove said members of Council have been previously furnished with a copy of this ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1990. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 1990 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1990. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1990 passed on its second reading.

E. PUBLIC HEARING RELATIVE TO THE FILING OF A GRANT APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION FOR FISCAL YEAR 1993 TRANSIT OPERATING ASSISTANCE

RESOLUTION NO. 92-126 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

Mayor Michalove opened the public hearing at 4:52 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Planner, stated that each year the City of Asheville applies to the Federal Transit Administration for Section 9 Operating Assistance funds to aid in the operations of the Asheville Transit Authority.

Mayor Michalove closed the public hearing at 4:55 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-126. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 268

V. CONSENT:

NOTE OF ITEM DELETED - THE MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 29, 1992, REGARDING MANUFACTURED HOUSING POLICY FOR THE UNIFIED DEVELOPMENT ORDINANCE WAS DELETED

A. MOTION SETTING PUBLIC HEARING ON SEPTEMBER 29, 1992, RELATIVE TO PROPOSED CHANGES IN DUPLICATE STREET NAMES

B. MOTION SETTING PUBLIC HEARING ON SEPTEMBER 29, 1992, RELATIVE TO REZONING OF 1221 SWEETEN CREEK ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

C. RESOLUTION NO. 92-127 - RESOLUTION OF INTENT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO DEAD END MOUNT CLARE AT ITS INTERSECTION WITH BROADWAY AND CALLING A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 13, 1992

RESOLUTION BOOK NO. 19 - PAGE 270

D. RESOLUTION NO. 92-128 - RESOLUTION OF INTENT TO CLOSE A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD AND CALLING A PUBLIC HEARING ON THE QUESTION FOR OCTOBER 13, 1992

RESOLUTION BOOK NO. 19 - PAGE 272

E. RESOLUTION NO. 92-129 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE ADDENDUM NO. 4 AND ANY SUBSEQUENT ADDENDA TO THE CONTRACT WITH VAUGHN & MELTON FOR ENGINEERING SERVICES FOR STREET AND SIDEWALK IMPROVEMENT AND REHABILITATION PROJECTS

Summary: During the course of Contract No. 7, several items were added to the contract but the situation which impacted Contract No. 7 the most was the construction of the storm sewer on Merrimon Avenue. Once the sidewalk had been removed and the construction begun, several obstructions were discovered that were not on any maps and, therefore, could not be accounted for in the design. The subsequent redesign and difficulty in installation extended the contract past its completion date which required additional engineering services that had not been accounted for in the initial proposal. In addition, geotechnical services for the changes had to be increased in order to assure quality construction.

RESOLUTION BOOK NO. 19 - PAGE 274

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Mary Weber, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on September 2, 1992:

MULBERRY HILL MOBILE HOME PARK

Ms. Weber said the group development request is for a mobile home park consisting of 48 homes on 529 North Louisiana Avenue. The site is 9 acres in area on gently sloping terrain. There is an existing single-family home on the site which will remain. The project is located in the R-5 Residential Zoning District and all adjacent properties are also in the R-5 District.

The site will be accessed through a new driveway off of North Louisiana. There will be a 20 ft. buffer around the perimeter of the site. The existing trees on the east and south sides of the property will be preserved, in addition to several other trees on the site.

Water and storm sewer services are available to the site, as well as adequate water flow and pressure for fire protection. The Metropolitan Sewerage District has not yet granted wastewater allocation because they are concerned about the quality of the downstream line. MSD is in the process of inspecting the line to assess its condition. So far, the line appears to be in better condition than previously thought. The developer is willing to share the cost of repairing the line if necessary.

At their September 2, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project with one condition - MSD must certify that the downstream line will be able to handle the increased wastewater and agree to allow the project to connect onto the MSD system.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

BILTMORE BUSINESS CENTER

Ms. Weber said the group development request is for a 34,730 square foot office/warehouse located on 125 Fairview Road. The site is three acres in area and is flat with a steep slope to the east. The project is located adjacent to the Slosman Corporation and is currently used for truck parking. The project is located in the Heavy Industrial Zoning District. The adjacent properties to the north, south, and west are also within the Heavy Industrial Zoning District and the properties to the east are located in the Residential-3 Medium Density Zoning District.

Access to the site will be through two existing driveways. All utilities are available for the project and there will be adequate fire protection. The site plan complies with all requirements of the Asheville Zoning Ordinance. The Asheville Planning and Zoning Commission recommended approval of the project at their September 2, 1992 meeting.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

U.S. CELLULAR

Ms. Weber said Azalea Development Company is proposing the construction of a building to be used for retail sales by U. S. Cellular Corporation. The 6,800 sq. ft. building will be located on the same lot as the Turtle Creek Shopping Center on Hendersonville Road. Parking for U. S. Cellular will be accommodated through a shared parking agreement with the Rock of Asheville Church, which is located within the shopping center. The site is contained within the Commercial Highway Zoning District and is adjacent to lots zoned Commercial Highway and R-2 Residential.

In addition, all utilities and adequate fire protection are available for the project. At their September 2, 1992 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

GENERAL MEDICAL CORPORATION

Ms. Weber said Benson Slosman is requesting approval of the site plan for a 35,000 square foot industrial building

and related parking. The building will be located off Interstate Road in a small industrial park located west of Brevard Road. The project site is approximately 2.9 acres and has been graded. All utility services are available at the site and are adequate to meet the needs of the proposed development. Fire protection will be provided by the Enka-Candler Volunteer Fire Department.

After reviewing the plans, the Planning and Zoning Commission voted 6-0 to approve the project with two conditions:

1. Receipt of a driveway permit from NCDOT required; and

2. The developer must obtain an easement agreement to permit the sewer line to cross property owned by Carolina Tractor Company. As of this date, this easement has been obtained.

There was no public opposition to the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 92-130 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-15

Assistant City Manager Penny said that this grant agreement is in the amount of $1,334,960. He said the FAA has approved a project consisting of (1) FAR Part 107 Security Measures; (2) Construct Runway 34 ERSA - Phase I; and (3) Rehabilitate A.R.F.F. vehicle.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution no. 92-130. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 275

C. CLAIMS

Assistant City Manager Penny said the following claims were received by the City during the week of August 31 -

September 4, 1992: Vonda Reid (Water); Kathryn C. Penland (Water); Lottie Murawski (Streets); and Rosalie Davison (Inspections).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:05 p.m.

William S. Holcett, Jr.
CITY CLERK

H. M. Michalove
MAYOR

Tuesday - September 22, 1992 - 2:00 p.m.

City Council Worksession

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore; Chris J. Peterson; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

PRE-ARRANGED INTERVIEWS FOR VACANCIES ON BOARD OF ADJUSTMENT AND THE PLANNING AND ZONING COMMISSION

DISCUSSION OF GROUP DEVELOPMENT REPORT BY COUNCIL COMMITTEE

DISCUSSION OF FUTURE WORKSESSIONS AND PUBLIC HEARINGS REGARDING REMAINING UDO ISSUES (MANUFACTURED HOUSING POLICY, SPECULATIVE GRADING & GRADING IN THE BUFFER ZONES, AND ZERO RUNOFF)

RESOLUTION NO. 92-131 - RESOLUTION AUTHORIZING THE ASHEVILLE-BUNCOMBE WATER AUTHORITY TO ACQUIRE EASEMENTS BY CONDEMNATION

City Manager Bean said that the Asheville-Buncombe Water Authority has been negotiating with property owners for the acquisition of easements relating to the West Asheville Connector Project. He said according to the attorney for the Water Authority, some of the negotiations have not been successful and there is a possibility that current negotiations may fail. The Water Authority would like to be in a position to file the necessary documents to acquire the necessary easements by condemnation should some or all of the negotiations fail.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-131. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

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William F. Wolcott, Jr. — CITY CLERK

K. M. Michalove — MAYOR

Tuesday - September 29, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the September 15, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. PRESENTATION OF LIBERATION OF KUWAIT METAL II

Mayor Michalove, with the assistance of Sgt. Royster from the Department of the Army, presented Brian Kunka, John E. Jones and Shirley Johnson with the Liberation of Kuwait Metal II.

On behalf of the City Council and the citizen of Asheville, Mayor Michalove thanked these servicemen and everyone who served in the conflict.

B. CERTIFICATE OF ACHIEVEMENT TO STEPHEN V. OXNER

City Manager Bean presented former City Manager Intern Stephen V. Oxner with a Certificate of Achievement.

C. PRESENTATION TO ASHEVILLE POLICE DEPARTMENT AND RONNIE DAVIS FROM THE NORTH CAROLINA SPECIAL OLYMPICS

Mr. Pete Curtis, representing the North Carolina Special Olympics, presented a plaque to the Asheville Police Department and Officer Ronnie Davis for the outstanding fundraising and special efforts put forth by Officer Davis and the Police Department. He said that out of the $140,000 raised state-wide, Officer Davis raised over $20,000 for this very worthwhile cause.

D. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 27 - OCTOBER 3, 1992, AS "GREEK HERITAGE WEEK"

Mayor Michalove proclaimed the week of September 27-October 3, 1992, as "Greek Heritage Week" and presented it to Councilman Peterson, who accepted it on behalf of Constantine Zourzoukis, Asheville's Greek Festival Chairman. Councilman Peterson urged everyone to attend the 6th Annual Greek Festival to be held on October 2-4, 1992, at the City County Plaza.

E. NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS 1992 AGENCY AWARD OF EXCELLENCE FOR PROJECT DESIGN RECEIVED BY THE HOUSING AUTHORITY OF THE ASHEVILLE OF ASHEVILLE

Mrs. Annette Coleman, Chairman of the Housing Authority, and Mr. David Jones, Executive Director of the Housing Authority, stated that the Hillcrest Renovation Project received the National Association of Housing and Redevelopment Officials 1992 Agency Award of Excellence for Project Design.

Mrs. Coleman said that project, designed by Spaceplan Architecture, Interiors and Planning, P.A. of Asheville, NC, was recognized in the southeastern regional competition and was moved into the national competition this summer. She said Spaceplan incorporated the suggestions and ideas of the residents into the design and the old 1950 barrack style institutional design was turned into two-story townhouses.

II. PUBLIC HEARING:

A. CONTINUATION OF PUBLIC HEARING TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED AT U.S. HIGHWAY 19-23 (KNOWN AS A PORTION OF THE WESTRIDGE MARKET PLACE ASSOCIATES INC. PROPERTY)

ORDINANCE NO. 1991 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED AT U.S. HIGHWAY 19-23 (KNOWN AS A PORTION OF THE WESTRIDGE MARKET PLACE ASSOCIATES INC. PROPERTY)

Mayor Michalove stated that the public hearing on this matter was opened on August 11, 1992, and comments from interested persons were heard at that meeting.

Ms. Patty Tallerday, Senior Planner, stated that fire protection from the Asheville Fire Department to this location is consistent with similar situations inside the City limits.

City Attorney Slawter said that the status of the two lawsuits relative to annexation of the West II area are still in the courts and unfortunately there is no way to tell how long they will be in that system.

Mr. George Beverly, Managing General Partner of Westridge Market Place Associates, Inc., and property owner of record, stated that his company has a contract with the North Carolina Board of Alcoholic Control which lease is contingent upon satellite annexation of this property. He said that they already have three tenants in the shopping center that either serve or sell alcohol.

Upon inquiry of Vice-Mayor Ellison about the possibility of waiting for the outcome of the proposed annexation of the area before finalizing this satellite annexation request, Mr. Beverly stated that the lease has already been extended until November 15. He felt that without knowing a specific closing date they would prefer not to wait for the annexation outcome.

Mr. Frank Griffin, resident on Asbury Road, spoke against the proposed satellite annexation. He reiterated all of his comments made at the August 11, 1992, public hearing.

Mayor Michalove closed the public hearing at 4:43 p.m.

Mayor Michalove stated that all members of Council had received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 1991. This motion was seconded by Vice-Mayor Ellison.

Vice-Mayor Ellison asked that the motion be amended to have the effective date of the annexation "effective six months from the date of final adoption of the ordinance." Councilwoman Field accepted the amendment.

Councilman Peterson stated that it was very hard for him to make this decision. He felt that in all other matters, the neighbors' comments very much weighed his decision, and, because of that, he felt the City should wait until the outcome of the proposed annexation of the entire area.

Councilman Worley said that he has also given this matter a great deal of thought. He stated that the area is already in the process of annexation and if that annexation occurs, it will make this issue moot. He believed that you have better control over alcoholic beverages with an ABC Store and explained his reasoning. He also said that the Council should be equitable in their decisions regarding non-contiguous satellite annexations and that the City has upheld annexations in similar situations, including an annexation in the same general area.

On a roll call vote of 5-1, with Councilman Peterson voting "no", Ordinance No. 1991 passed on its first reading.

Councilwoman Field moved to suspend the rules and proceed to the second reading of Ordinance No. 1991. This motion was seconded by Councilman Swicegood and carried on a 5-1 vote, with Councilman Peterson voting "no."

On a roll call vote of 5-1, with Councilman Peterson voting "no", Ordinance No. 1991 passed on its second reading.

Mayor Michalove stated that consideration of the third and final reading of this ordinance would be held in approximately 30 days.

B. PUBLIC HEARING RELATIVE TO PROPOSED CHANGES IN DUPLICATE STREET NAMES

RESOLUTION NO. 92-132 - RESOLUTION TO CHANGE NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 4:55 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Fire Chief John Rukavina said that because of the number of streets in the City of Asheville with identical names, which has the potential to cause life- and property-threatening confusion to emergency responders, the Asheville Fire Department has devised a method to provide for differentiation among these duplicate street names with minimum impact on the occupants of the streets. He recommended the designation of "north", "west", "south", or "east" be an additional suffix to the end of the street name. He said there are to exceptions to the directional designation, i.e., Galax Avenue to be changed to Galax Drive and Davidson Street to be changed to Davidson Drive because

there are no occupants on those streets. He said they have eliminated Robinson Street because the residents actually live on Carver Street and there is an administratively way to deal with that issue. He recommended the changes take effect on January 1, 1993, in order that everyone affected will have adequate notification. He stated that residents on the streets with the same names will not have to change their addresses on checks or anything because the Post Office disregards the direction designations. He stated that the changes will help 911 dispatchers know which duplicate street an emergency call is coming from.

Upon inquiry of Councilman Swicegood, Fire Chief Rukavina felt that a consolidated police, fire and 911 center would save precious moments in emergency situations and might even save tax dollars.

Mr. Jerry VeHaun, Emergency Operations Center, felt that a consolidated center was a good concept, but he felt it would not save the City or County any money. He felt that the change in street designations is unnecessary due to the present 911 computer technology defining locations of all streets. He stated he would go into the 911 database to make sure the direction designations do not create a problem. He presented the Council with a petition with 33 names on it objecting to the changing of Beverly Road, in West Asheville, to Beverly Avenue.

Fire Chief Rukavina stated that the Fire Department did do a preliminary check with County Planning and found no problems with the directional designations. He stated that a thorough check would be done.

Upon inquiry of Ann Cross, Fire Chief Rukavina said that two groups (Public Works Department and the Planning Department) presently review the street naming process so duplicate names can be avoided in the future.

Mayor Michalove closed the public hearing at 5:15 p.m.

Mayor Michalove stated that members of Council have been previously furnished with copies of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-132. This motion was seconded by Councilman Worley and carried unanimously

RESOLUTION BOOK NO. 19 AT PAGE 278

C. **PUBLIC HEARING RELATIVE TO THE REZONING OF 1221 SWEETEN CREEK ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT**

ORDINANCE NO. 1992 - AN ORDINANCE AMENDING ZONING OF 1221 SWEETEN CREEK ROAD

Mayor Michalove opened the public hearing at 5:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice, Urban Planner II, said that on September 2, 1992, the Asheville Planning and Zoning Commission reviewed and recommended approval of the rezoning of 1221 Sweeten Creek Road (PIN # 9656-05-29-0829) from CS Commercial Service District to CH Commercial Highway District. She said that the petitioner is Martin K. Reidinger, attorney for the owner. She said the subject property is a 3.6 acre tract with a vacant commercial structure (old Nashville Club) located on a flat terrain. She said the use of that structure will be a church and the current CS zoning does not permit churches. She said the 2010 Asheville City Plan calls for commercial land use and there has been no neighborhood opposition.

Mr. Reidinger said that the church is currently in an office space that has since been rented and would like very much to be able to start renovating the vacant structure in order to move in.

Upon inquiry of Councilman Swicegood about the disrepair of the road leading into the vacant structure, Ms. Alberice said that it is a private drive and the City does not maintain it.

Mayor Michalove closed the public hearing at 5:22 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1992. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 1992 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1992. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1992 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1992. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1992 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 146

III. OLD BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 1988, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH AND REMOVE THE DWELLING KNOWN AS 37 ADAMS STREET, ASHEVILLE, NORTH CAROLINA**

Mayor Michalove said that this ordinance passed on its first and second readings on September 15, 1992.

Mr. Bob Hixson, Director of Inspections, stated that he has received a verbal response from Montford Housing Services that they are not interested in this house for rehabilitation purposes. He also has received a written response from Mountain Housing stating that they are not interested in rehabilitating the house either.

On a roll call vote of 6-0, Ordinance No. 1988 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 126

B. **THIRD READING OF ORDINANCE NO. 1989, AN ORDINANCE ASSIGNING ZONING CLASSIFICATIONS TO THE HAW CREEK II ANNEXATION AREA**

Mayor Michalove said that the first and second reading of this ordinance passed on September 15, 1992.

On a roll call vote of 6-0, Ordinance No. 1989 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 128

C. **THIRD READING OF ORDINANCE NO. 1990, AN ORDINANCE AMENDING SECTION 30-1-3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (TERRITORIAL AND EXTRATERRITORIAL JURISDICTION OF ZONING ORDINANCE)**

Mayor Michalove said that the first and second reading of this ordinance passed on September 15, 1992.

On a roll call vote of 6-0, Ordinance No. 1990 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 138

IV. NEW BUSINESS:

A. REPORT REGARDING "ADOPT A PARK" PROGRAM

Sgt. Stephen V. Oxner, former City Manager Intern, outlined his "Adopt A Park" Program. He feels that the Adopt a Park Program, the City will be able to utilize a volunteer force to accomplish five basic objectives: (1) foster pride within the community; (2) create a clean, safe and inviting environment for the people who use the parks; (3) invoke community involvement in our parks system; (4) enhance the relationship between the City and the community it serves; and (5) provide a monetary savings for the City. He feels the program will utilize a volunteer work force composed of businesses and professional organizations which will provide maintenance and clean up for our parks. This program can also be established to allow companies or organizations to adopt specific projects rather than the entire park. He explained that the program will be flexible enough to allow more than one group to adopt a park and provide differing levels of service. He explained the steps associated with the program and how it would work through the coordination of the Director of Parks and Recreation.

Upon inquiry of Vice-Mayor Ellison relative to the cost of this program, Sgt. Oxner stated that a cost analysis has not been done but feel the cost of getting into the program would be minimal.

Councilman Peterson commended Sgt. Oxner on his report and suggested that some of the housing project parks be considered first.

Vice-Mayor Ellison moved to authorize the City Manager to set up a pilot program and report back to the Council, within a reasonable period of time, the status of that pilot program. This motion was seconded by Councilman Worley and carried unanimously.

B. REPORT ON FEES AND CHARGES STUDY

Councilmen Peterson and Swicegood reported that although they have made significant progress in some areas,

they feel that they are not able to give a full report on their study regarding fees and charges. They felt that an additional 30 days will enable them to complete their study and report back to the Council.

Vice-Mayor Ellison asked that they make the Council aware of who would be impacted the most by any increase in user fees, in particular the parks and recreation function.

C. **FINAL PLAT APPROVAL OF HEATH RIDGE ACRES SUBDIVISION WAS POSTPONED AT THE REQUEST OF THE PLANNING STAFF**

D. **RESOLUTION NO. 92-133 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS**

E. **RESOLUTION NO. 92-134 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE CITY FINANCE DIRECTOR TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF THE CITY'S PROPOSED REFUNDING BOND FINANCING AND TO SUBMIT SUCH APPLICATION TO THE LOCAL GOVERNMENT COMMISSION**

City Manager Bean said that the City issued $3,000,000 General Obligation Bonds for Streets & Sidewalks in 1987 and $8,400,000 General Obligation Bonds for Public Improvements in 1988. $2,300,000 of the 1987 and $7,350,000 of the 1988 bonds remain outstanding. Interest rates have fallen significantly since original issue dates but not far enough to refund at current levels. Further declines in the interest rate is possible. The staff has initiated the procedures necessary for tentative approval of refunding bonds and will carry forward the application only when interest rates provide a savings. The two resolutions here (1) direct the publication of notice of intention to apply to the Local Government Commission for approval and (2) authorize the Finance Director to apply to the Local Government Commission for approval.

Mayor Michalove said that members of Council have been furnished with copies of the resolutions and they will not be read.

Councilman Worley moved for the adoption of Resolution No. 92-133. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 280

Councilman Worley moved for the adoption of Resolution No. 92-134. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 281

F. ORDINANCE NO. 1993 - ORDINANCE AMENDING CHAPTER 18, SECTION 18-20-1 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (REGULATING TOPLESS WAITRESSES, EMPLOYEES, DANCERS OR ENTERTAINERS)

City Manager Bean explained that in 1991 the North Carolina General Assembly amended N. C. Gen. Stat. sec. 14-4 to permit cities to increase the fine for violation of city ordinances for an amount not to exceed $500. Although cities are still free to permit fines not to exceed $50 under the new legislation, the $50 fine does not appear to be cost prohibitive and therefore should be amended to reflect a fine not to exceed $500.

Mayor Michalove said members of Council have been furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 1993. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 1993 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1993. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1993 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1993. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 1993 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 148

G. ORDINANCE NO. 1994 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR THE NEW AFTER SCHOOL PROGRAM AT REID AND SHILOH RECREATION CENTERS

City Manager Bean said that this budget amendment, in the amount of $48,000, is to appropriate funds to operate two paying after school programs at Reid and Shiloh Recreation Centers. He said the revenue collected will offset all expenditures.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1994. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 1994 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 149

H. RESOLUTION NO. 92-136 - RESOLUTION TO PROVIDE FOR A REFERENDUM BY THE CITY OF ASHEVILLE'S ELIGIBLE FIRE DEPARTMENT EMPLOYEES UNDER PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

City Manager Bean explained that there are employees within the Asheville Fire Department not covered under the Federal Social Security Act. He said the City Council has received requests from various members of that department to hold a referendum to determine whether or not the majority of those members who are not currently covered wish to be covered under the Federal Social Security Act. He said this resolution will authorize such an election for January 15, 1993. He said if the firefighters vote in favor of Social Security coverage, the estimated annual City contribution would be approximately $300,000 and the firefighters would contribute a like amount.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 92-135. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 282

V. CONSENT:

A. RESOLUTION NO. 92-136 - RESOLUTION APPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

Summary: The terms of Ann Davis, Ron Duyck, Lynn Staton, Larry Linney, Marilyn Nason, Matthew Bacoate, Gail Gouge, Ronald Blythe and Barbara Field expired on August 1, 1992. This resolution will reappoint Ann Davis, Ron Duyck, Marilyn Nason and Ronald Blythe. This resolution will also appoint Karen Beard, Charles Lawrence, Laura Todd and Edward Schell, all to serve their respective terms until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 284

B. RESOLUTION NO. 92-137 - RESOLUTION APPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Barbara McEwan expired on August 30, 1992. This resolution will appoint Loyd Kirk to serve a three year term, term expiring August 30, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 286

C. RESOLUTION NO. 92-138 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE WHITE PINE DRIVE PROJECT BEGINNING NEAR ITS INTERSECTION WITH BRACKETTOWN ROAD AND ENDING AT ITS INTERSECTION WITH U.S. HIGHWAY 70 (TUNNEL ROAD)

Summary: The nature of the project is to construct, reconstruct, pave, widen, install curbs and gutters, and otherwise build and improve White Pine Drive beginning on White Pine Drive (approximately 208 linear feet from its intersection with Brackettown Road) and ending at its intersection with Tunnel Road. The proposed basis for making the assessments is the value added to the land served by the White Pine Drive Project, or subject to being served by it, at an equal rate per dollar of value added. The public hearing is set for October 20, 1992, at 4:00 p.m. on the Second Floor of the City Hall Building.

RESOLUTION BOOK NO. 19 AT PAGE 287

D. RESOLUTION NO. 92-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE RIGHT-OF-WAY ENCROACHMENT AGREEMENTS WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Summary: From time to time the City desires to encroach on the right-of-way of a state maintained road or highway for various purposes. The N.C. Department of

Transportation is willing to permit encroachments for certain purposes, in certain locations and under certain circumstances.

RESOLUTION BOOK NO. 19 AT PAGE 289

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 92-140 - RESOLUTION APPROVING THE ISSUANCE OF A PERMIT BY THE CITY OF ASHEVILLE INSPECTIONS DIVISION TO ALTER/REPAIR A WOOD FRAME BUILDING WITHIN THE PRIMARY FIRE LIMITS

City Manager Bean said that an application for a special permit at 19 and 21 Haywood Street has been received to allow the adaptive re-use of this TYPE VI building in the fire district. The building is one story too high to comply with Table 400 of the Building Code, however, the architect has accomplished an analysis using Appendix Q of the Building Code which shows that the improvements that will be made to the building meet the minimum requirements in Appendix Q and make the project possible. These improvements include fire rating the walls in the building, providing occupancy separation, installing fire/smoke alarms and a communication system in the building and ensuring that exit travel distances remain less than half of the maximum allowable. The Building Inspections Division and the Fire Prevention Division of the Fire Department both recommend approval of this application. Upon City Council of the application, the Director of Building Inspections will forward the request to the Department of Insurance for their approval, prior to the issuance of a permit to do the work.

Mayor Michalove said that members of Council have been furnished with copies of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-140. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 290

B. CERTIFICATION OF THE PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A CONTIGUOUS AREA LOCATED NORTH OF OVERLOOK ROAD (SECTION 1 OF BRAESIDE AT BILTMORE PARK)

C. **RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION 1 OF BRAESIDE AT BILTMORE PARK)**

City Manager Bean said that a petition requesting annexation of property located north of Overlook Road (Section 1 of Braeside at Biltmore Park) has been received and signed by the sole owner of the property. The City Clerk has investigated the sufficiency of the petition and has certified to the City Council the sufficiency thereof. He said the property is contiguous to the existing corporate limits as defined by N. C. Gen. Stat. sec. 160A-31 (f) in that it is separated from the municipal boundary by a portion of the right-of-way of Overlook Road. This resolution will set a public hearing on the question of annexation for October 13, 1992, at 4:00 p.m. in the Council Chamber on the second floor of the City Hall Building.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 92-141. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 291

D. **CLAIMS**

City Manager Bean said the following claims were received by the City during the week of September 7-11, 1992: Mary Floyd (Water); Betty Harrell (Water); and Linda Smith (Water).

He stated that the following claims were received by the City during the week of September 14-18, 1992: James Pratt (Sanitation); John Powell (Traffic Engineering); George Farlow (Traffic Engineering); Pat Smith (Water); Elsie Wright (Water); Darryl Rhymes (Streets); and Edna Cole (Civic Center).

He also stated that the following claims were received by the City during the week of September 21-28, 1992: Delia Robinson (Water); David Bailey (Streets); Southern Bell (Water); Oliver Watts (Fire); and Grace Covenant Presbyterian Church (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:57 p.m.

William J. Mallett, Jr.
CITY CLERK

W. M. Michalove
MAYOR

Tuesday - October 13, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson; Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the September 29, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. Recognition of Quarterly B*E*S*T Award Winner

City Manager Bean presented Co-Wefa Lyda in the City's Infirmary with the quarterly B*E*S*T Award. He said that Co-Wefa helped a very sick and frightened employee to get medical attention. He refused Police or ambulance escort to the hospital. Co-Wefa's genuine concern for this employee allowed her to establish a trusting and positive relationship prior to this crises event. She spoke with him by telephone and he agreed to go to the hospital. She drove him to the emergency room in her personal vehicle and then remained with him at the emergency room until 7:30 p.m. because he was afraid and did not want to be alone.

B. PROCLAMATION PROCLAIMING OCTOBER 19-24, 1992, AS "NATIONAL BUSINESS WOMEN'S WEEK"

Mayor Michalove proclaimed the week of October 19-24, 1992, as "National Business Women's Week." He presented the proclamation to Ms. Mary Burrell, President of Asheville's Business and Professional Women's Club, who spoke about some activities that will take place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO DEAD-END MT. CLARE AT ITS INTERSECTION WITH BROADWAY AVENUE AND CHESTNUT STREET

Mayor Michalove opened the public hearing at 4:14 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that the City received a letter from Chief Engineer for Preconstruction J.T. Peacock Jr. regarding the east Mt. Clare Street/Broadway Avenue/ Chestnut Street intersection. In that letter, the North Carolina Department of Transportation ("NC DOT") has agreed to consider leaving the intersection open, however, their plans will include acquiring necessary rights-of-way should the need arise to cul-de-sac Mt. Clare in the future.

All Council members spoke in support of leaving Mt. Clare open and was pleased that NC DOT agreed to leaving it open.

A resident in the area presented the Council with a petition containing 380 names which opposed the closing of Mt. Clare as it enters the intersection of Chestnut and Broadway.

Upon an inquiry from a resident if there would be any traffic lights installed for the streets that enter onto Broadway, Mayor Michalove said that the City would ask NC DOT to do a traffic count.

Mayor Michalove closed the public hearing at 4:26 p.m.

Vice-Mayor Ellison moved to take no action on the closing of Mt. Clare intersection. This motion was seconded by Councilman Moore and carried unanimously.

B. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD

RESOLUTION NO. 92-142 - RESOLUTION TO CLOSE A PORTION OF ST. PAUL STREET BETWEEN SUMMIT STREET AND HENDERSONVILLE ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Public Works Director, said that Mr. and Mrs. Ushakant Patel petitioned that St. Paul Street between Summit Street and Hendersonville Road be permanently closed

to public use. The Patels own all property on both sides of St. Paul Street between Summit Street and Hendersonville Road. All utility companies have been contacted and there are no problems.

Upon inquiry of Councilman Moore, Mr. Patel stated that he has no immediate plans for the area but since the area is zoned Commercial Service District, he might build some type of commercial building in the future.

Mayor Michalove closed the public hearing at 4:30 p.m.

Mayor Michalove stated that members of Council have received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 92-142. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 294

C. PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION 1 OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 1995 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD KNOWN AS SECTION I OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 4:32 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, said that on September 29, 1992, the City received a petition from the owners of Section 1 of Braeside at Biltmore park requesting annexation into the City of Asheville. This property is comprised of 19 subdivided lots and is a portion of a new residential subdivision.

On September 29, 1992, the City Clerk certified that a petition for annexation signed by John F.A.V. Cecil, Vice President of Biltmore Dairy Farms Inc., was valid in that the petition was signed by the owners of the real property being requested for annexation and that the property was contiguous to the Asheville city limits.

Approximately 1,100 linear feet of 6-inch water line is being installed on Overlook Road and continues into the subdivision on Bent Oak Lane for a distance of approximately 1,500 linear feet. Fire hydrant and valve spacing along this waterline are consistent with Asheville-Buncombe Water Authority standards. Likewise, the sanitary sewer system being installed has been reviewed and approved by the Metropolitan Sewerage District ("MSD") and will ultimately be owned and maintained by MSD. This includes approximately 5,690 linear feet of 8-inch sanitary sewer.

Fire protection will be provided through a contract with the Skyland Volunteer Fire Department and the City of Asheville Fire Department.

The roads within Section 1 at Braeside are being constructed to NC DOT standards and are expected to be dedicated to the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the NC DOT roads upon the effective date of annexation.

The City of Asheville will also provide solid waste collection services to individual residences according to the same policies in effect in the City at the time of annexation.

The petitioner is requesting adoption of the ordinance on all three readings at this meeting, with an effective date of April 13, 1993. The six month delay of the effective date is consistent with the statute requirements which allows the effective date to be set effective immediately upon adoption of an ordinance or any specified date within six months from the passage of the ordinance. The current estimated real property valuation is $609,307 and the tax valuation based on $.60/$100 valuation will be $3,656.

Mr. Cecil said that this area will be for residential development and asked the Council to consider passing this ordinance on all three readings today, with an effective date of April 13, 1993.

Mayor Michalove closed the public hearing at 4:37 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 1995. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 1995 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 1995. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1995 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance no. 1995. This motion was seconded by Councilman Worley and carried unanimously

On a roll call vote of 7-0, Ordinance No. 1995 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 151

III. OLD BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA**

City Attorney Slawter said that the third reading of this ordinance has been postponed several times in order to allow the City to complete the tax foreclosure sale. He said that sale has now been completed and title to the property is held by Kenneth Maultsby. He said that since Mr. Maultsby has begun demolition of the structure he felt it would be appropriate to continue the third reading of the ordinance.

Mr. Kenneth Maultsby gave some background information and passed out photographs and a site plan to familiarize the Council with the structure located at 10 Sunset Summit. He said that they intend to demolish down to the foundation, salvage the foundation and then utilize the lower two floors of the present structure. He asked the Council to not table the ordinance but to allow him to receive a building permit which will allow them to start building onto the existing foundation.

Mayor Michalove explained that the City Council does not have the authority to issue building permits. The only authority that the Council has at this time is to either pass the ordinance on third reading or continue the third reading.

Mr. Bob Hixson, Director of Inspections, said that it was his understanding that if the City demolished the building, the City would have it demolished completely including the foundation. He said that if the property owner demolished the structure only to the foundation, which the property owner felt to be structurally sound, Mr. Maultsby would need a zoning permit prior to being issued a building permit.

Ms. Julia Cogburn, Planning Director, said that because of the variance granted to the prior owner, Mr. Maultsby would have to apply for a zoning permit and have a specific set of drawings showing exactly what he is proposing to do. She said that Planning Staff can make the decision about the zoning permit, but if a variance is requested, that will have to go before the Board of Adjustment for their consideration.

Mr. Harvey Heywood, resident of 12 Sunset Summit, stated that he bid on this structure at the tax foreclosure sale with the understanding that the structure had to be demolished totally, including the foundation. He said that had he known he would only have had to demolish down to the foundation, that might have influenced his bidding. He stated that the order issued from the Building Inspector was to tear it down, not partially. He spoke in opposition of anything other than a total demolition, including the foundation.

Vice-Mayor Ellison moved to continue the third reading of Ordinance No. 1958 until December 15, 1992, without further advertisement, in order to give Mr. Maultsby time to apply for a zoning permit and if a variance is needed, time for the Board of Adjustment to hear the issue. This motion was seconded by Councilman Moore and carried unanimously.

IV. NEW BUSINESS: NONE

V. CONSENT:

A. RESOLUTION NO. 92-143 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A RIGHT-OF-WAY ENCROACHMENT AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY RELATIVE TO THE WEST ASHEVILLE CONNECTOR PROJECT

Summary: The route chosen for the installation of the Asheville-Buncombe Water Authority's 24-inch West Asheville connector waterline in some locations is concurrent with an existing CP&L right-of-way. Although existing CP&L facilities will not be adversely affected by this waterline installation, an agreement to encroach onto CP&L's right-of-way is necessary.

RESOLUTION BOOK NO. 19 AT PAGE 296

B. RESOLUTION NO. 92-144 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AND OFF ROAD EQUIPMENT AT PUBLIC AUCTION

Summary: The Acting Fleet Management Manager has declared 60 surplus motor vehicles or off road equipment as surplus. The Purchasing Director is requesting to be authorized to dispose of this property by public auction. The estimated revenue from this auction will be approximately $40,000.

RESOLUTION BOOK NO. 19 AT PAGE 297

C. RESOLUTION NO. 92-145 - RESOLUTION REAPPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: This resolution will reappoint Russell M. Martin to serve an additional three year term, term expiring November 13, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 300

D. RESOLUTION NO. 92-146 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: The terms of Rosa Walker, William Neville, J. Lowell Orbison and Claude Haynes expired on August 1, 1992, and Rebecca Norris resigned in April of 1991. This resolution will reappoint William Neville for a 3 year term, term expiring August 1, 1995; reappoint J. Lowell Orbison to serve the unexpired term of Rebecca Norris, term expiring August 1, 1993; appoint Robert Fabrey for a 3 year term, term expiring August 1, 1995; and appoint Langdon Ammen for a 3 year term, term expiring 1, 1995. All terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 301

E. RESOLUTION NO. 92-147 - RESOLUTION REAPPOINTING A MEMBER TO THE WESTERN NORTH CAROLINA AIR POLLUTION CONTROL BOARD

Summary: This resolution will reappoint Rev. Nilous Avery for an additional six year term, term expiring June 15, 1988, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 - PAGE 302

Vice-Mayor Ellison moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. CP&L EASEMENT AGREEMENT

Councilman Moore moved to authorize the City Manager to sign a Supplemental Agreement with Cooper Construction Company and a letter of indemnification with CP&L relative to installation of water line across CP&L property, subject to prior approval of the City Attorney. This motion was seconded by Councilman Worley and carried unanimously.

B. CLAIMS

The City Manager said the following claims were received during the week of September 28-October 2, 1992: Wind in the Oaks (Water); Roy Rathbone (Fire); Allison's Flowers (Water); Frank Wright (Streets); and Robert Clark (Water).

He said the following claims were received during the week of October 5-9, 1992: Christine McCurry (Civic Center); Diana Harmon (Civic Center); Bernice Gough (Police); and Southern Bell (Water).

He said these claims would be referred to the appropriate insurers for investigation.

C. RALPH BISHOP

Mr. Ralph Bishop commented on gambling that is being conducted in the City of Asheville.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:25 p.m.

William F. Holcomb, Jr.
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - October 20, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson; and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Joseph Carr Swicegood

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the October 13, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. Recognition of Personnel Director Pam McGrayne and Personnel Staff for receiving The Government As Model Employer Award

City Manager Bean said that the City of Asheville is one of only 47 chosen in 1992 to receive The Government As Model Employer Award. The City received this award because it has demonstrated exceptional commitment to helping employees fulfill both work and family responsibilities.

Ms. McGrayne accepted the award on behalf of the City of Asheville and gave a brief background of the process.

B. PROCLAMATION PROCLAIMING OCTOBER 24, 1992, AS "ST. JUDE BIKE-A-THON DAY"

Mayor Michalove proclaimed October 24, 1992, as "St. Jude Bike-A-Thon Day" in the City of Asheville. He presented the proclamation to Mr. Boyd Evans, Coordinator of the Bike-A-Thon, and Ms. Cathryn Shaffer.

Ms. Shaffer invited the Council to attend the Bike-A-Thon on Saturday, October 23, 1992, at Recreation Park from 10:00 a.m. to 3:00 p.m.

C. PROCLAMATION PROCLAIMING THE MONTH OF OCTOBER, 1992, AS "NATIONAL PHYSICAL THERAPY MONTH"

Mayor Michalove proclaimed the month of October, 1992, as "National Physical Therapy Month" in the City of Asheville. He presented the proclamation to Ms. Nancy Righi who described some activities taking place during the month.

D. PROCLAMATION PROCLAIMING OCTOBER 24, 1992, AS "UNITED NATIONS DAY"

Mayor Michalove proclaimed October 24, 1992, as "United Nations Day" in the City of Asheville. He presented the proclamation to Mr. Tom Rodman and Mr. and Mrs. Jack Fobes who invited the Council and public to the UN Flag Raising Ceremony to take place on October 23, 1992, at 1:30 p.m. at the City/County Plaza.

E. PROCLAMATION PROCLAIMING OCTOBER 20, 1992, AS "NATIONAL BASKETBALL ASSOCIATION DAY"

Mayor Michalove proclaimed October 20, 1992, as "National Basketball Association Day" in the City of Asheville.

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO WHITE PINE DRIVE STREET ASSESSMENTS

RESOLUTION NO. 92-148 - RESOLUTION DIRECTING THAT THE WHITE PINE DRIVE PROJECT BEGINNING NEAR ITS INTERSECTION WITH BRACKETTOWN ROAD AND ENDING AT ITS INTERSECTION WITH U.S. HIGHWAY 70 (TUNNEL ROAD) BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

RESOLUTION NO. 92-149 - RESOLUTION FINDING THE WHITE PINE DRIVE PROJECT BEGINNING NEAR ITS INTERSECTION WITH BRACKETTOWN ROAD AND ENDING AT ITS INTERSECTION WITH U.S. HIGHWAY 70 (TUNNEL ROAD) COMPLETED, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

Mayor Michalove opened the public hearing at 4:22 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that the total cost of the project is $46,123.50 and the amount which will be assessed is $16,704.00. He stated that there are four property owners but one property owner, R.L. Coleman & Company, will pay the entire assessed cost.

City Attorney Slawter stated that a public hearing will need to be held on November 3, 1992, announcing the completion of the preliminary assessment roll.

Mayor Michalove closed the public hearing at 4:26 p.m.

Mayor Michalove stated that members of Council have been furnished with copies of both resolution and they will not be read.

Councilman Worley moved for the adoption of Resolution No. 92-148. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 303

Councilman Moore moved for the adoption of Resolution No. 92-149 setting a public hearing date of November 3, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building announcing the completion of the preliminary assessment roll. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 304

III. OLD BUSINESS: NONE

IV. NEW BUSINESS:

A. BOND ORDER AUTHORIZING THE ISSUANCE OF $3,250,000 STREETS AND SIDEWALKS REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove introduced the Bond Order Authorizing the Issuance of $3,250,000 Street and Sidewalk Refunding Bonds of the City of Asheville, North Carolina.

B. BOND ORDER AUTHORIZING THE ISSUANCE OF $10,250,000 PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove introduced the Bond Order Authorizing the Issuance of $10,250,000 Public Improvement Refunding Bonds of the City of Asheville, North Carolina.

C. RESOLUTION NO. 92-150 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, REGARDING BOND ORDERS AUTHORIZING THE ISSUANCE OF $3,250,000 STREET AND SIDEWALK REFUNDING BONDS AND $10,250,000 PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF

ASHEVILLE, SETTING A PUBLIC HEARING THEREON AND DIRECTING PUBLICATION OF A NOTICE OF SAID PUBLIC HEARING

City Manager Bean said that on September 29, 1992, the City Council directed the publication of its intent to apply to the Local Government Commission for its approval of $13,500,000 General Obligation Refunding Bonds. Publication was accomplished on October 2, 1992, and the bond orders were introduced on October 20, 1992. The law provides that the City Council hold a public hearing and public the notice of that public hearing.

Councilman Moore moved for the adoption of Resolution No. 92-150 calling for a public hearing on November 3, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 306

D. RESOLUTION TO APPLY TO STATE OF NORTH CAROLINA FOR GRANT FOR HOUSING REHABILITATION OF OAK KNOLL APARTMENTS

This item will be delayed until November 3, 1992.

E. DISCUSSION RELATIVE TO PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE BILTMORE VILLAGE PROJECT

Mr. Robert Griffin, architect and representative of the Biltmore Village property owners, said that since the City will be replacing Kitchen Place and Boston Way sidewalks with standard concrete, Biltmore Village is requesting that the City provide a different streetscape which would reflect the historic nature of Biltmore Village, especially since the 100th anniversary will be coming in 1995. The total cost of the brick sidewalks on Kitchen Place and Boston Way is $140,000 and the business owners are asking the City Council to pay $70,000 and they will pay $70,000 over five years through a special tax assessment. Mr. Griffin stressed that Biltmore Village has been without any street improvements for approximately 50 years and feels that they are not unreasonable in asking the City to pay 50% of the brick sidewalk enhancement. He said that Biltmore Village brings in $12 million each year in retail sales and a like amount in non-retail professional work. He said the City receives approximately $240,000 in taxes from that.

Mr. Griffin said that Biltmore Village would also like to have street lights patterned after the original design for Biltmore Village which will cost $113,000, but they understand that the City cannot participate in the cost of the lights.

Vice-Mayor Ellison felt that the could not commit to the City spending more money until he sees the overall inventory of streets and sidewalks that the City Manager will be distributing in the near future. He felt that some needed improvements in other areas might be cut if they commit to spending money in this area.

Councilwoman Field moved to add an alternate into the bid document for the brick sidewalk enhancement. It was the consensus of Council that this motion was not meant to commit the Council to spend the money for the enhancement work to be done. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT:

A. **RESOLUTION NO. 92-151 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR PROPERTY AT THE ASHEVILLE REGIONAL AIRPORT**

Summary: An easement is needed by CP&L for property at the Asheville Regional Airport. The easement will serve the Hertz maintenance facility and the electric line for said easement will be placed underground.

RESOLUTION BOOK NO. 19 AT PAGE 308

B. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 3, 1992, TO CHANGE "McINTOSH ROAD" TO "KEENAN DRIVE" AT THE REQUEST OF THE RESIDENTS ON McINTOSH ROAD**

C. **MOTION SETTING PUBLIC HEARING ON REZONING OF 16 SEPARATE PARCELS LOCATED ON GASHES CREEK ROAD FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL FOR NOVEMBER 3, 1992**

D. **MOTION SETTING PUBLIC HEARING ON REZONING OF 4 PARCELS LOCATED ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE FOR NOVEMBER 3, 1992**

E. **MOTION SETTING PUBLIC HEARING ON ZONING OF 2323 HENDERSONVILLE ROAD FOR NOVEMBER 3, 1992**

F. **RESOLUTION NO. 92-152 - RESOLUTION AUTHORIZING THE ASHEVILLE-BUNCOMBE WATER AUTHORITY TO ACQUIRE EASEMENTS BY CONDEMNATION**

Summary: The Asheville-Buncombe Water Authority has requested authority to acquire easements by condemnation in connection with the West Asheville Connector Project. The water line has been installed and the Water Authority needs to obtain easements.

RESOLUTION BOOK NO. 19 AT PAGE 309

Vice-Mayor Ellison moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. **GROUP DEVELOPMENT**

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on October 8, 1992:

HAW CREEK VILLAS

Mr. Green said that in November, 1983, the Asheville Planning and Zoning Commission and the Asheville City Council granted approval for the construction of Phase I of the Haw Creek Villas project, located on Haw Creek Circle. Phase I was to consist of three buildings with four dwelling units in each building. Two of the buildings were constructed and construction stopped, with the project eventually sold. The approval granted in 1983 became invalid due to lack of activity on the project.

He said the present owners, Brown and Workman, are requesting reaffirmation of the original approval to permit the construction of the third building in Phase I. All utility services are available to the project and adequate to meet the needs of the proposed building. Fire protection is available at the site. Following their review on October 8, 1992, of the site plan, the Planning and Zoning

Commission voted 6-0 to recommend that the approval originally granted the project in November, 1983 be reaffirmed with one condition - the developer shall comply with all landscaping requirements established by the City of Asheville's Landscape and Buffering Ordinance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. MOTION AUTHORIZING THE MAYOR TO SIGN A GRANT APPLICATION FOR A GRANT UNDER THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S HOUSING OPPORTUNITIES FOR PEOPLE WITH AIDS PROGRAM

Vice-Mayor Ellison moved to authorize the Mayor to sign a grant application for a grant under the U.S. Department of Housing and Urban Development's Housing Opportunities for People with AIDS program. This motion was seconded by Councilman Moore and carried unanimously.

C. REQUEST

A request was made by representatives of the Gospel Tabernacle Church relative to additions to a building. City Manager Bean suggested the representatives meet with Gerald Green to find out how the request could be achieved.

D. CLAIMS

City Manager Bean stated that the following claims were received by the City of Asheville during the week of October 12-16, 1992: Nadeen Rolfe (Water), Shirley Kayne (Water), Southern Bell (Water), Southern Bell (Water), John R. Williams IV (Water), Steve Hillman (Streets), Steven Mendelsohn (Water), and Brenda Jones (Sanitation).

He said these claims have been referred to the appropriate insurers for investigation.

E. RALPH BISHOP

Mr. Ralph Bishop spoke against gambling in the City of Asheville.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:10 p.m.

William D. Bolstad, Jr. — CITY CLERK

H. W. Michalove — MAYOR

Tuesday - November 3, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the October 20, 1992, City Council minutes as submitted.

At this time, Vice-Mayor Ellison left the meeting unexcused. Mayor Michalove stated that all Vice-Mayor Ellison's votes will be in the affirmative.

I. PROCLAMATION:

A. CERTIFICATE FOR FORMER CITY MANAGER INTERN JOHN WITHERSPOON

City Manager Bean presented John Witherspoon with a certificate in appreciation for his work as City Manager Intern.

B. RECOGNITION OF MAKOTO HASEGAWA

Mayor Michalove recognized Makoto Hasegawa, Japanese intern from Shimizu City, Japan, and presented him some gifts. Mr. Hasegawa said how pleased he was to be in the United States and especially in Asheville, North Carolina.

C. PROCLAMATION PROCLAIMING NOVEMBER 8-14, 1992, AS "VOICE OF DEMOCRACY WEEK"

Mayor Michalove proclaimed the week of November 8-14, 1992, as "Voice of Democracy Week" in the City of Asheville.

D. PROCLAMATION PROCLAIMING THE WEEK OF NOVEMBER 1, 1992, AS "NATIONAL MEDICAL STAFF SERVICES AWARENESS WEEK"

Mayor Michalove proclaimed the week of November 1, 1992, as "National Medical Staff Services Awareness Week" in the City of Asheville. He presented the proclamation to Ms. Marcia Amos, from St. Joseph's Hospital, who spoke about the importance of medical staff services.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CHANGING "McINTOSH ROAD" TO "KEENAN DRIVE" AT THE REQUEST OF RESIDENTS ON McINTOSH ROAD

RESOLUTION NO. 92-153 - RESOLUTION CHANGING THE NAME OF McINTOSH ROAD TO KEENAN DRIVE

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Fire Chief John Rukavina said that Mary Ann Noblett and Mr. and Mrs. Joseph M. Hyatt are the only two residences on McIntosh Road. They have requested that the name of their street be changed to Keenan Drive. This change would reduce mail delivery confusion and potential emergency response confusion because there is another street in Buncombe County called McIntosh Road. Buncombe County representatives have confirmed that Keenan Drive will not duplicate another street name elsewhere in Buncombe County.

Ms. Noblett urged the Council to change the name which should help expedite mail delivery.

Mayor Michalove closed the public hearing at 4:27 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 92-153. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 311

B. PUBLIC HEARING RELATIVE TO REZONING OF 16 SEPARATE PARCELS LOCATED ON GASHES CREEK ROAD FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 1996 - ORDINANCE AMENDING ZONING OF SIXTEEN SEPARATE PARCELS (OR PORTIONS OF A LOT) ON GASHES CREEK ROAD

Mayor Michalove opened the public hearing at 4:29 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice, Urban Planner II, said that on September 2, 1992, the Asheville Planning and Zoning Commission heard a request to consider the rezoning of three individual properties on Gashes Creek Road from R-2 to an OI zoning classification. The Planning staff recommendation was approval based on the 2010 Asheville City Plan. During the public hearing it became apparent to the Commission that a larger area should be considered for the change to OI zoning. The item was tabled until October.

She said that a neighborhood public hearing was held at the Gashes Creek Baptist Church on September 16, 1992. A presentation was presented by the Planning staff and comments were taken from those affected by the proposed rezoning change.

She said that at the October 8, 1992, Planning and Zoning meeting, the enlarged request was approved unanimously with no public opposition.

Mr. Brad Galbraith, real estate agent representing the petitioners who originally requested the rezoning of three individual properties, spoke in favor of the rezoning. He asked if the Council could possibly adopt the ordinance on all three readings today since everyone involved was in favor of the rezoning.

Mr. John Moore, representative of the Gashes Creek Baptist Church, commended the Planning staff on how they approached the community with the rezoning request. He spoke in favor of the rezoning.

Mayor Michalove closed the public hearing at 4:40 p.m.

Mayor Michalove stated that members of Council had been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of the ordinance. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1996 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 1996. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1996 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1996. This motion was seconded by Councilman Swicegood and carried on a 5-2 vote, with Mayor Michalove and Councilman Moore voting "no."

On a roll call vote of 7-0, Ordinance No. 1996 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 154

C. PUBLIC HEARING RELATIVE TO REZONING OF 4 PARCELS LOCATED ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

ORDINANCE NO. 1997 - ORDINANCE AMENDING ZONING OF FOUR LOTS LOCATED ON CROWELL ROAD

Mayor Michalove opened the public hearing at 4:42 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice said that on October 8, 1992, the Planning and Zoning Commission voted unanimously to rezone four properties on the east side of Crowell Road from R-3 to CS and tabled consideration of another eight properties along the same street pending further research.

She said the 4 approved properties are flat to sloping in terrain and used currently as single family dwellings. The 2010 Asheville City Plan shows, in the northwest quadrant of the land use maps, this area as commercial with a commercial business center to be located at the intersection of 19/23 and I-40.

She said that 4 surrounding property owners spoke in opposition to the commercial rezoning at the Planning and Zoning meeting.

Mr. W. V. Henry, 98 Starnes Cove Road, spoke against the proposed rezoning.

Mayor Michalove closed the public hearing at 4:52 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1997. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 1997 passed on its first reading.

D. PUBLIC HEARING RELATIVE TO ZONING OF 2323 HENDERSONVILLE ROAD

ORDINANCE NO. 1998 - ORDINANCE CREATING NEW ZONING FOR 2323 HENDERSONVILLE ROAD

Mayor Michalove opened the public hearing at 4:54 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice said that this is a recent satellite annexation (September 29, 1992) and currently not zoned. The past zoning was under Limestone Township and was of commercial nature. The Planning and Zoning Commission on October 8, 1992, reviewed and recommended CH Commercial Highway District for 2323 Hendersonville Road.

Mayor Michalove closed the public hearing at 4:56 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 1998. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 1998 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 1998. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1998 passed on its second reading.

E. PUBLIC HEARING RELATIVE TO THE PRELIMINARY ASSESSMENT ROLL ON THE WHITE PINE DRIVE SPECIAL ASSESSMENT PETITION

RESOLUTION NO. 92-154 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE WHITE PINE DRIVE PROJECT BEGINNING NEAR ITS INTERSECTION WITH BRACKETTOWN ROAD AND ENDING AT ITS INTERSECTION WITH U.S. HIGHWAY 70 (TUNNEL ROAD)

Mayor Michalove opened the public hearing at 4:57 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that this resolution would confirm the preliminary assessments made in the White Pine Drive Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is $46,125.30. The amount assessed and which will be paid by R. L. Coleman and Company is $16,704.00.

Councilman Swicegood questioned whether the improvements made would help the traffic flow in that area.

Mayor Michalove closed the public hearing at 4:59 p.m.

Mayor Michalove said members of Council had been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-154 on November 3, 1992, at 4:59 p.m. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 213

F. PUBLIC HEARING RELATIVE TO A BOND ORDER AUTHORIZING THE ISSUANCE OF $3,250,000 STREETS AND SIDEWALKS REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 5:00 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that Council adopted a resolution authorizing publication of Notice of Intent to Apply to Local Government Commission (LGC) for approval of

Refunding Bonds on September 29, 1992. Notice was published on October 2, 1992, and application to LGC was made on October 8, 1992. Bond Orders were introduced on October 20, 1992, and this public hearing was set for today. A sworn statement of debt was filed with the City Clerk on October 14, 1992.

Mayor Michalove closed the public hearing at 5:02 p.m.

Councilman Moore moved for the adoption of the Bond Order authorizing the issuance of $3,250,000 Streets and Sidewalks Refunding Bonds of the City of Asheville, North Carolina.

F. PUBLIC HEARING RELATIVE TO A BOND ORDER AUTHORIZING THE ISSUANCE OF $10,250,000 PUBLIC IMPROVEMENT REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 92-155 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF $13,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1992 OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 5:03 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that Council adopted a resolution authorizing publication of Notice of Intent to Apply to Local Government Commission (LGC) for approval of Refunding Bonds on September 29, 1992. Notice was published on October 2, 1992, and application to LGC was made on October 8, 1992. Bond Orders were introduced on October 20, 1992, and this public hearing was set for today. A sworn statement of debt was filed with the City Clerk on October 14, 1992.

Mayor Michalove closed the public hearing at 5:04 p.m.

Councilman Moore moved for the adoption of the Bond Order authorizing the issuance of $10,250,000 Public Improvement Refunding Bonds of the City of Asheville, North Carolina.

Councilman Moore moved for the adoption of Resolution No. 92-155 which establishes the details of the Bonds and approves an Escrow Agreement. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 - PAGE 314

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1991, AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A NON-CONTIGUOUS AREA LOCATED ON U.S. HIGHWAY 19-23 (KNOWN AS A PORTION OF WESTRIDGE MARKET PLACE ASSOCIATES, INC., PROPERTY)

Mayor Michalove said that the public hearing on this matter was opened on August 11, 1992, and continued until September 29, 1992. This ordinance passed on its first and second reading on September 29, 1992.

Mayor Michalove stated that members of Council had been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-1 (with Councilman Peterson voting "no"), Ordinance No. 1991 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 143

IV. NEW BUSINESS:

A. ORDINANCE NO. 1999 - ORDINANCE AMENDING ORDINANCE NO. 1855, AS PREVIOUSLY AMENDED (ORDINANCE FOR THE LEVY AND COLLECTION OF BUSINESS LICENSE TAXES)

City Manager Bean stated that Chapter 955 of the 1991 Session Laws made changes in the authority for local franchise taxes for dry cleaners and laundries. This ordinance amends the City's privilege license in accordance with those changes.

Mayor Michalove said that members of Council had been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of the ordinance. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 1999 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 1999. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1999 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1999. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1999 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 160

B. RESOLUTION NO. 92-156 - RESOLUTION TO AUTHORIZE SUBMISSION OF AN APPLICATION TO THE STATE OF NORTH CAROLINA FOR FUNDS TO REHAB OAK KNOLL APARTMENTS

Mr. Marvin Vierra, Community Development Director, said that the owner of Oak Knoll Apartments has requested the City apply to the State for funds through the HOME Program to be used for rehabilitation of the Oak Knoll Apartments. The funds received by the City would be loaned to the owner for rehab of the 180 units with requirements that the rents be affordable to low income persons and the units meet HUD housing quality standards. The total project cost is $1,073,428, $547,170 to be paid for by the owner.

Mr. Larry Fisher, Finance Director, stated that he had been provided three years of audited financial statements of Oak Knoll Apartments, proforma statements for future years, and has contacted bankers and he was satisfied with the credit worthiness of the principal.

Upon inquiry of Councilman Swicegood about the poor condition of the apartments, Mr. Glynn G. Nalls, Vice-President of Operations for MBG Management, Inc., stated that the apartments were built in 1984 and physical repairs are common in apartment complexes after 6 or 7 years.

There was discussion relative to the number of units that were Section 8 units and non-assisted units.

Mr. Nalls stated that the owner, Rick Marshall, will be spending $547,170 for the rehab of the apartments and the $526,258 HOME loan request is for weatherization of the apartments, i.e. installation of vinyl siding, window replacement, patio doors, entrance doors, storm doors and shutters. He said that regardless of the HOME loan, Mr. Marshall intended to continue with his part of the rehab of the apartments. He said that HUD only allows Mr. Marshall

to make $22,600 a year in the apartments, regardless of profits made.

There was discussion relative to the financial status of the owner.

Mr. James A. Barrett, Attorney for Pisgah Legal Services, urged the Council to support the loan application. He said, among other things, that the developer proposes to pay the City 3% interest and pay back the amount to the City. He said the funds can then be used over and over again for affordable housing purposes.

Ms. Christine Fountain, President of the Tenants' Association, spoke in favor of the loan application. She said the weatherization items will help make the apartments more energy efficient. She also hoped that there would be employment opportunities as a result of the rehab of the apartments.

Mr. Tony Sayer, Director of Affordable Housing Coalition, spoke in support of the loan application.

Councilman Moore moved for the adoption of Resolution No. 92-156. This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no."

RESOLUTION BOOK NO. 19 AT PAGE 324

V. CONSENT AGENDA:

A. BIDS RELATIVE TO PARKING METERS FOR THE PARKING SERVICES DIVISION

Summary: Bids were invited to furnish a total of 325 new parking meters less trade-in for 313 surplus/junk parking meters for the Parking Services Division. Two bids were received and City staff recommends awarding the contract to the low bidder, POM Incorporated, Russellville, Arkansas in the net bid amount of $59,711.30. See Exhibit "A" attached hereto for the complete bid summary.

B. RESOLUTION NO. 92-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE TECHNICAL SERVICES CONTRACT (#88-84) WITH THE LAND-OF-SKY REGIONAL COUNCIL

Summary: This amendment extends the existing agreement for Land-of-Sky Regional Council to continue providing certain transportation services.

RESOLUTION BOOK NO. 19 AT PAGE 326

C. RESOLUTION NO. 92-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS FROM THE NORTH CAROLINA ARTS COUNCIL AND, UPON APPROVAL, TO SIGN A GRANT AGREEMENT

Summary: This resolution will authorize the City Manager to sign an application for $2,100 in grant funds from the North Carolina Arts Council for arts expansion in the Livingston Street neighborhood.

RESOLUTION BOOK NO. 19 AT PAGE 327

D. RESOLUTION NO. 29-159 - RESOLUTION CALLING FOR A PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL REGARDING THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Summary: This resolution will schedule the date for a public hearing to announce the completion of the preliminary assessment roll. The public hearing will be scheduled for November 17, 1992, at 4:00 p.m. in the Council Chamber on the Second Floor of the City Hall Building, at which time the Council will either adopt a resolution confirming the assessment roll or otherwise act on the preliminary assessment roll.

RESOLUTION BOOK NO. 19 AT PAGE 328

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 92-160 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Mr. John Dusenbury resigned as a regular member from the Board of Adjustment in June, 1992; Richard A. Bass resigned as a regular member from the Board of Adjustment in October, 1992; the term of Barney Woodard as an alternate will expire January 21, 1993; and the term of Jeff Dave as a regular will expire January 21, 1993. This resolution will: (1) Appoint Kent Newell to fill the unexpired regular term of John Dusenbury, term to expire January 21, 1993, and then for a three year regular term, term to expire January 21,

1996; (2) Appoint Patrick Ochsenreiter to fill the unexpired regular term of Richard A. Bass, term to expire January 21, 1994; (3) Appoint Jim Hunter (effective January 21, 1993) to fill a three year alternate term, term expiring January 21, 1996; and (4) Reappoint Jeff Dave as a regular member to an additional three year regular term, term to expire January 21, 1996. All terms are effective until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 160

B. CLAIMS

City Manager Bean said the following claim has been received by the City during the week of October 19-23, 1992: Julius J. Johnson (Police).

He stated that the followings claim have been received by the City during the week of October 26-30, 1992: Suzanne Saunders (Water); Southern Bell (Water); Carltina Hall (Inspections); and John Cram (Water).

He said that these claims have been referred to the appropriate insurers for investigation.

VIII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 5:55 p.m.

William D. Holcomb, Jr.
CITY CLERK

W. M. Michalove
MAYOR

BID SUMMARY — CITY OF ASHEVILLE PURCHASING DIVISION — BID OPENED: TUESDAY, OCTOBER 20, 1992

325 NEW PARKING METERS FOR DOWNTOWN DEVELOPMENT DEPARTMENT, PARKING SERVICES DIVISION
LESS TRADE-IN FOR 313 SURPLUS/JUNK PARKING METERS

ITEM	POM INCORPORATED RUSSELLVILLE, AR	DUNCAN INDUSTRIES PARKING CONTROL SYSTEMS CORP. HARRISON, AR
1. 259 NEW PARKING METERS, SINGLE HEAD, MANUAL TYPE		
MANUFACTURER:	POM Incorporated	Duncan
PRODUCT NO.:	Model S Manual	Model 76 Single
UNIT COST:	$154.86	$220.21
AMOUNT:	$40,108.74	$57,034.39
2. 66 NEW PARKING METERS, DOUBLE HEADED, SINGLE MOUNT MANUAL TYPE		
MANUFACTURER:	POM Incorporated	Duncan
PRODUCT NO.:	Model S Manual	Model 76 Duplux
UNIT COST:	$313.66	$409.09
AMOUNT:	$20,701.56	$26,999.94
3. TRADE-IN ALLOWANCE FOR 313 SURPLUS/JUNK PARKING METERS		
AMOUNT:	$1,099.00	No Trade-in
TOTAL NET BID:	$59,711.30	$84,034.33
TERMS:	Net 30	Net 30
DELIVERY:	45 - 60 Days	30 Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond

30

Exhibit "A"

Tuesday - November 17, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the November 3, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. PROCLAMATION PROCLAIMING NOVEMBER 17, 1992, AS "WOMEN IN THE MILITARY DAY - PAST AND PRESENT"

Mayor Michalove proclaimed November 17, 1992, as "Women in the Military Day - Past and Present" in the City of Asheville.

B. PROCLAMATION PROCLAIMING DECEMBER 1, 1992, AS "WORLD AIDS DAY"

Mayor Michalove proclaimed December 1, 1992, as "World Aids Day" in the City of Asheville and presented the proclamation to Ms. Barb McElroy.

II. PUBLIC HEARING:

E. PUBLIC HEARING RELATIVE TO THE PRELIMINARY ASSESSMENT ROLL ON THE AZALEA AVENUE SPECIAL ASSESSMENT PETITION

RESOLUTION NO. 92-161 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE AZALEA AVENUE PROJECT BEGINNING AT THE END OF THE EXISTING PAVEMENT ON AZALEA AVENUE AND ENDING AT THE END OF THE ROADWAY

Mayor Michalove opened the public hearing at 4:05 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that this resolution would confirm the preliminary assessments made in the Azalea Avenue Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is $6,484.76. The amount assessed is $3,242.38.

Mayor Michalove closed the public hearing at 4:06 p.m.

Mayor Michalove said members of Council had been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-161 on November 17, 1992, at 4:06 p.m. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 332

III. OLD BUSINESS:

A. SECOND READING OF ORDINANCE NO. 1997 - ORDINANCE AMENDING ZONING OF FOUR LOTS LOCATED ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Michalove said that a public hearing was held on this ordinance on November 3, 1992, at which time it passed on its first reading.

Mayor Michalove said members of Council had been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 7-0, Ordinance No. 1997 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 1997. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 1997 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 156

B. THIRD READING OF ORDINANCE NO. 1998 - ORDINANCE CREATING NEW ZONING FOR 2323 HENDERSONVILLE ROAD TO CH COMMERCIAL HIGHWAY DISTRICT.

Mayor Michalove said that a public hearing was held on this ordinance on November 3, 1992, at which time it passed on its first and second readings.

Mayor Michalove said members of Council had been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 7-0, Ordinance No. 1998 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 158

IV. NEW BUSINESS:

A. ORDINANCE AMENDING CHAPTER 18, SECTION 18-5 OF THE CODE OF ORDINANCES PROHIBITING BEGGING

City Attorney Slawter stated that the proposed ordinance is patterned after the ordinances in Charlotte and Shelby, North Carolina, and Atlanta, Georgia, and to date none of these ordinances have been challenged constitutionally. He said that the ordinance does not prohibit begging, but prohibits "aggressive" begging. He said that accosting another or forcing oneself upon the company of another, as the terms are defined in the ordinance, would be unlawful.

Police Chief Gerald Beavers stated that during the past two years, there has been an outcry from the public regarding begging (mostly in the downtown area). The ordinance on the books now is very outdated and he feels this ordinance will a tool to deter aggressive and sometimes hostile begging.

Upon inquiry of Councilman Moore, Police Chief Beavers said that this ordinance has no effect upon the type of solicitation done by organizations at traffic lights. He said those organizations to have to obtain a permit and are monitored by the Police Department.

Vice-Mayor Ellison stated his concerns about the maximum amount of fine, which is $500 or 30 days in jail. He felt that some type of education program needed to be conducted on what is and is not acceptable conduct. He felt that the poor and homeless should not be penalized so severely for begging. He suggested a warning system be implemented which would document how many times a warning was given, and, if, two or more warnings were issued, then a

citation could be given. He suggested the maximum amount of the fine be reduced to $50 and five days in jail for the first conviction and then perhaps $500 and 30 days in jail for any subsequent conviction.

Police Chief Beavers stated that an in-house education program would be held to educate his officers on this matter and he had no problem at all in reducing the fine provisions. He offered to write the warning system relative to begging into a departmental policy. He felt that since there was mainly the same people begging over and over again, it would not be hard to let them know of the warnings and subsequent violation penalties.

Mayor Michalove suggested that a copy of the ordinance, if and when it was adopted, could be posted in homeless shelters.

It was the consensus of Council to have the City Attorney draft some language that would reduce the penalty provisions as suggested by Vice-Mayor Ellison and incorporate into the ordinance a warning system.

B. FINAL PLAT APPROVAL FOR DEVONSHIRE SUBDIVISION

Ms. Mary Weber, Urban Planner, stated that the Devonshire Subdivision is located off of Hendersonville Road just south of the Blue Ridge Parkway. The project will be constructed in seven phases. The request is to subdivide a 13 acre tract into 89 lots. This final plat is the first phase and includes 10 lots. The site lies within the R-3 Residential Zoning District. Adjacent zoning includes R-2 and R-3 to the north, and CH to the south.

She said the site will be accessed by a new road off of Hendersonville Road.

She stated that the proposed subdivision meets the requirements of the Asheville Zoning Ordinance and the Subdivision Regulations. On July 20, 1992, the developer obtained a variance from the Board of Adjustment from the front setback requirement in order to preserve a wetland. In addition, all utilities and the Fire Department have approved availability of services to the site. The owner has submitted a performance bond to guarantee the completion of the public improvements, such as water and sewer, curb and gutter, storm drainage and paving, after approval of the final plat. At their March 4, 1992, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the Devonshire Subdivision.

Councilman Swicegood moved for the approval of the final plat of Devonshire Subdivision. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

C. FINAL PLAT APPROVAL FOR CAROLINA TRACTOR AND EQUIPMENT SUBDIVISION

Ms. Mary Weber said that the Carolina Tractor and Equipment Subdivision is located on Oakview Road in the extraterritorial jurisdiction near the I-40/I-240 interchange. The request is to subdivide a 23 acre tract into three lots (1 at 7.2 acres, 1 at 7.3 acres, and 1 at 8.5 acres).

She said the site is contained within the LI Light Industrial District and is bordered by property which is zoned LI Light Industrial District and CH Commercial Highway District. The lots will be accessed by Oakview Road and Interstate Boulevard.

She said the proposed subdivision meets the requirements of the Zoning Ordinance and Subdivision Regulations. In addition, the Water and Sewer Engineering Department and the Enka Volunteer Fire Department have approved availability of services to the site. At their November 4, 1992, meeting, the Planning and Zoning Commission voted to recommend approval of the subdivision with one contingency - that the developer must obtain a letter of sewer allocation from the Metropolitan Sewerage District. She said that the letter is forthcoming but just has not yet arrived.

Councilman Moore moved for the approval of the final plat of Carolina Tractor and Equipment Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT AGENDA:

A. RESOLUTION NO. 92-162 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE BROADWAY MUNICIPAL AGREEMENT (BROADWAY IMPROVEMENTS)

Summary: This is a joint agreement to acquire right-of-way needed for a proposed greenway to be constructed adjacent to the project. The Department of Transportation (DOT) will make every attempt to acquire certain excess right-of-way or residue properties located along the

project. Upon completion of the project, DOT shall convey the excess right-of-way that they were able to acquire. The City agrees to pay for the residue parcels based upon cost estimates to be adjusted when actual cost figures are attainable. The City has 3 years to make the payments with no interest if all payments are made within the 3 year period. The Council has identified up to $300,000 (over 6 years) in the Capital Improvements Program for the acquisition of the excess parcels. Current estimates for these parcels are $545,000.

RESOLUTION BOOK NO. 19 AT PAGE 334

B. RESOLUTION NO. 92-163 - RESOLUTION REQUESTING THE NATIONAL WEATHER SERVICE RETAIN AN OFFICE IN ASHEVILLE, NORTH CAROLINA

Summary: The present National Weather Service plan calls for the closure of weather stations in Charlotte, Greer, Asheville, Athens and Augusta. All weather coverage would come from Columbia. Because of Asheville's terrain, the weather here is quite different from the weather in the flat lands and only with a weather station in Asheville would the weather reports be accurate for this area. Fog and light rain, both of which are indigenous to this area, are not seen on radar and would therefore not be reported from weather stations remote from this area. Having the highest terrain in the southeast, it is the opinion of most aviators and the Asheville Airport Authority that a weather station is helpful and needed here.

Councilman Moore moved to have Mayor Michalove write a letter to Congressman Taylor stressing the importance of leaving the National Weather Service Office in Asheville open and send a copy of the resolution to him as well. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 335

C. RESOLUTION NO. 92-164 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: Robert Fabrey resigned from this Commission due to a prior appointment on a different board. This resolution will appoint Dennis Wilson to serve a 3 year term, term expiring August 1, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 19 AT PAGE 336

D. RESOLUTION NO. 92-165 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION

Summary: The terms of Barbara Melton and Pat Hutchison expired on August 14, 1992. This resolution will reappoint Barbara Melton for an additional two year term, expiring August 14, 1994; and will appoint Roderick Hudgins to serve a two year term, expiring August 14, 1994.

RESOLUTION BOOK NO. 19 AT PAGE 337

E. RESOLUTION NO. 92-166 - RESOLUTION OF INTENT TO CLOSE AN UNOPENED PORTION OF CLOYES STREET AND CALLING A PUBLIC HEARING ON THE QUESTION FOR DECEMBER 15, 1992

RESOLUTION BOOK NO. 19 AT PAGE 338

F. MOTION SCHEDULING A PUBLIC HEARING FOR DECEMBER 8, 1992, RELATIVE TO A VARIANCE ON THE RIGHT-OF-WAY WIDTH FOR THE TACO BELL SUBDIVISION

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Mary Weber, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on November 4, 1992:

21 HAYWOOD STREET

Ms. Weber said the group development request is for the adaptive reuse of the old Revco building on 21 Haywood Street. The proposal is to construct 8 residential units, a retail space, and an office in the 19,000 square foot space. Part of the project was reviewed and approved earlier as a small project. The group development review is for 6 of the residential units. The project is located in the Central Business Zoning District and required Downtown Design Review.

Parking will be accommodated by building a pedestrian bridge to the Rankin Garage where twelve spaces will be rented. The owner has worked with the City's Legal staff to obtain an easement for the bridge.

The site plan meets all of the requirements of the Asheville Zoning Ordinance.

On September 29, 1992, the City Council approved a variance from the standards for construction in the City's Fire District.

All utilities are available for the project and there will be adequate fire protection. The Asheville Planning and Zoning Commission recommended approval at their November 4, 1992 meeting.

Vice-Mayor Ellison felt that since this will be the first time a pedestrian bridge has been addressed by this Council, he felt a public hearing would be in order.

Vice-Mayor Ellison moved to schedule a public hearing on the group development of 21 Haywood Street for December 8, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Peterson and carried unanimously.

GERBER PRODUCTS WAREHOUSE EXPANSION

Ms. Weber said that this group development request is for a 180,000 square foot warehouse and office expansion on 1840 Hendersonville Road. The site is 40 acres in area and the disturbed area is 16 acres. The project is located in the Heavy Industrial Zoning District and is surrounded by Commercial Highway and Heavy Industrial zones.

Access to the site will be moved from Hendersonville Road to Gerber Road. The North Carolina Department of Transportation has agreed to install a traffic signal at the intersection of Hendersonville and Gerber Roads. In addition to the building expansion, additional parking will be constructed to accommodate trucks.

The site plan complies with all requirements of the Asheville Zoning Ordinance. All utilities are available for the project and there will be adequate fire protection. The Asheville Planning and Zoning Commission recommended approval of the project at their November 4, 1992 meeting.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

T.C. ROBERSON HIGH SCHOOL ADDITION

Ms. Weber said that the Buncombe County Board of Education is proposing additions to the T.C. Roberson High School located on Overlook Road. The project will consist of 35,000 square feet of additional and renovated classrooms and a new gymnasium for handicapped students. The site and all adjacent properties are contained within the R-4 Residential Zoning District. With the exception of five new handicapped parking spaces, existing parking areas and driveways will be utilized by the proposed additions.

At the November 4, 1992, Planning and Zoning Commission meeting, John Schmidt, an adjacent property owner, expressed his opposition to a proposed classroom to be located near his property. However, the project meets the requirements of the Asheville Zoning Ordinance, including landscaping and buffering. In addition, the Water and Sewer Engineering and Fire Departments have approved availability of services to the site. At their November 4, 1992, meeting, the Planning and Zoning Commission voted to recommend approval of the group development with one contingency. The contingency is that the developer must obtain a letter of sewer allocation from the Metropolitan Sewerage District and that letter has been received.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. MOTION TO SET PUBLIC HEARING ON DECEMBER 8, 1992, RELATIVE TO THE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY FOR THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Councilwoman Field moved to schedule a public hearing on December 8, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building, relative to the Comprehensive Housing Affordability Strategy for the Asheville Regional Housing Consortium. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

C. ANNOUNCEMENT OF PUBLIC MEETING ON MANUFACTURED HOUSING POLICY FOR THE UNIFIED DEVELOPMENT ORDINANCE ON MONDAY, NOVEMBER 23, 1992, AT 7:00 P.M. IN THE COUNCIL CHAMBER OF THE CITY HALL BUILDING

D. NO MEETING OF THE ASHEVILLE CITY COUNCIL ON TUESDAY, NOVEMBER 24, 1992, BECAUSE OF THE THANKSGIVING HOLIDAY AND NO MEETING OF THE ASHEVILLE CITY COUNCIL ON TUESDAY, DECEMBER 1, 1992, BECAUSE THE CITY COUNCIL WILL BE ATTENDING THE NATIONAL LEAGUE OF CITIES MEETING

E. ANDREA AUSTIN

Ms. Andrea Austin expressed her support for the Council requesting that the National Weather Service retain an office in Asheville.

F. STATEMENT BY CELESTE HICKS, REPRESENTATIVE OF THE SPIRITUAL ASSEMBLY OF THE BAHA'I OF ASHEVILLE

Ms. Celeste Hicks, representative of The Spiritual Assembly of the Baha'i of Asheville, read a statement relative to racial harmony in the community. She encouraged the Council to take positive steps and offered their resources to address this most important issue in our City.

G. MIKE SUMMEY REQUEST FOR SIGN ORDINANCE VARIANCE

Mr. Mike Summey explained a problem he has encountered with an interpretation in the sign ordinance.

After some discussion, it was suggested that Mr. Summey attend the upcoming Board of Adjustment meeting and request a variance. In the meantime, the Planning and Zoning staff, along with the legal staff, would be looking at the specific sections in the sign ordinance in which he felt there were interpretation problems.

H. CLAIMS

City Manager Bean said that the following claims have been received by the City of Asheville during the week of November 2-6, 1992: Lavonda Blackwell (Water) and Elbert Williams (Police).

He said that the following claims have been received by the City during the week of November 9-13, 1992: Katherine Lyda (Sanitation); Betty Williams (Water); Vernon Yelton (Water); Bennie Lake (Streets); and Mike Angel (Streets).

He said that these claims have been referred to the appropriate insurers for investigation.

I. **RALPH BISHOP**

Mr. Ralph Bishop spoke about his right to address the Council for longer than three minutes. He questioned why gambling joints were allowed to run in the City.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:43 p.m.

Miriam J. Moretti
CITY CLERK

W. M. Michalove
MAYOR

Monday - November 23, 1992 - 7:00 p.m.

Special Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilmen William G. Moore and Joseph Carr Swicegood

PUBLIC HEARING REGARDING MANUFACTURED HOUSING POLICY FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Michalove opened the public hearing at 7:02 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Fagan, property owner on Starnes Cove Road, stated that it was difficult to know how he would be affected until he knew where the overlay areas were to be located. He questioned if he would have any other opportunities to voice his concerns once the overlay areas were drawn.

Mr. Gerald Green, Senior Planner, stated that once the City Council gives its okay, the Planning Department starts its notification process, i.e. legal notices in paper, notices to adjoining property owners (and if your property is within 400 feet of the affected area, a letter is sent), posting of signs in affected areas, and possible community meetings. The Planning & Zoning Commission ("P&Z") will then hold a public hearing on the matter and then the City Council must hold a public hearing. The public hearing process will take a minimum of 90 days. He said this process will be the same process that all rezonings presently go through.

Ms. Betty Fagan, property owner on Starnes Cove Road, stated that several years ago a petition was signed by approximately 300 people in their area asking that manufactured housing be avoided in their area. She stated that there was not enough personnel in the Planning Department now to enforce the illegal placement of mobile homes. She questioned what effect manufactured housing in their area would have on property values.

Ms. Meg MacLeod, representative of Citizens for Quality Development, read a prepared statement which is attached hereto and made a part hereof as Exhibit "A".

Upon inquiry of Hazel Fobes, Mr. Green defined "manufactured housing." Ms. Fobes stated her concerns that manufactured homes did not meet the North Carolina Residential Building Codes.

Mr. Pat Holland, 51 Botany Drive, stated that he was going to be placing two mobile homes on some property he owned which have already been approved. He hoped that after the outcome of this issue, he would still be allowed to do this. He spoke in support of minimum standards and aesthetics.

Ms. Jimmie Lockman, Vice-President of the Coalition of Asheville Neighborhoods, read a prepared statement which is attached hereto and made a part hereof as Exhibit "B".

Mr. Danie Johnson, former member of P&Z, suggested the Council look at all information compiled by the manufactured housing sub-committee which urged the Council to allow manufactured housing in all zoning districts through the use of overlay zones. Mr. Johnson felt that would not be in the best interest for the City of Asheville.

Mr. Scott Dedman, 209 Cumberland Avenue and representative of Pisgah Legal Services, stated that manufactured housing seems to be the first choice for people seeking affordable housing. He said that requiring higher standards for manufactured housing might be a concern the City's legal staff should look into. He urged the Council to adopt the CP&L's common sense manufactured home statement which will pay for itself in less than two years through energy savings. He suggested some incentives be given for the use of the common sense weatherization standards.

Mayor Michalove closed the public hearing at 7:45 p.m.

Councilwoman Field explained the following steps on this issue. She said that on December 8, 1992, the City Council would vote on policy direction to give staff so that they could write the section on manufactured housing for the Unified Development Ordinance ("UDO"). After it is written, it will go to P&Z for their review and then P&Z will hold a public hearing to receive public input based on the actual written sections of the UDO. Then the City Council will hold another public hearing which will be another opportunity for changes to be made.

Councilman Worley clarified that the issue of the location of the overlay zones would not be addressed until after the entire UDO is adopted.

Mayor Michalove adjourned the meeting at 7:50 p.m.

Marian E. Wolcott
CITY CLERK

H. M. Michalove
MAYOR

EXHIBIT "A"

Manufactured Housing and General Housing Recommendations

Respectfully submitted to City Council
By Citizens for Quality Development, November 23, 1992. Contact 251-0400 or 254-6484 for information.

Contents

I. Answers to City Planning Department's Questions .....Page 1
II. Background Information on Manufactured Housing .....Page 2
III. Policy Recommendations .....Page 3
IV. Solutions to achieving the Policy Recommendations. . . .Page 4

I. Answers to Questions posed by the City Planning Staff

At the Manufactured Housing Education Session, November 9, 1992

We've "pulled out" some of our recommendations from the pages that follow to address these questions:

1. ***Should the City's standards for manufactured housing be strengthened or weakened? For example, should the roof pitches of manufactured homes be regulated so that they blend in with other homes in the neighborhood?***

   We recommend that Asheville adopt high, uniform standards for all housing under the City's jurisdiction for construction, safety, welfare, and resource efficiency.
   a. Manufactured housing should not be exempted from these standards.
   b. References for such standards are the N.C. Residential Building Code and the Standard Building Code of the Southern Building Codes Congress International.
   c. A timetable for complying with the new standards should be adopted.
   d. Single-wide units should not be required to meet requirements concerned with size, such as ceiling heights, room size, square footage, etc.

2. ***Should manufactured homes be prohibited to certain zones or should the City use "overlay zones" when regulating the location of these homes?***

   We recommend overlay zones for manufactured housing, provided that:
   - The public (especially the residents of the areas who will be directly impacted) and the planning staff agree on where these overlay zones are appropriate.
   - Appearance standards such as roof pitch, landscaping, etc., will be specific to each overlay district

3. ***How should the City deal with single-wide manufactured homes? Should they be allowed in the City or not? (The single-wides do not blend as well in many neighborhoods as double-wides.)***

   Our research and research done by the Planning Department shows that, unless low or no interest mortgage rates are given, single-wide units are the only manufactured homes that may be affordable for low income people. For this reason, we recommend allowing single-wides in the City via overlay zones, as recommended in our answers to Items #1(d) and #2, above.

4. ***Should the City allow Manufactured Housing Rental Communities in the City or not? If so, in which districts should they be allowed?***

   We recommend that manufactured home rental communities be allowed in the City. They should be considered a "special use" in districts where such development is compatible with the surrounding area and where ingress and egress and utilities and services are (or can be) provided. These rental communities should also be placed via overlay zones, as recommended in Item #2, above.

II. Background: Manufactured Housing

Manufactured homes must meet HUD standards for construction and health, safety, and welfare, but not N.C. Residential Building Codes.

- ***N.C. Residential Building Codes and HUD Standards*** (HUD: U.S. Dept. of Housing and Urban Development)

HUD standards establish square footage requirements, insulation, plumbing, electrical (through the National Electrical Code), heating, fire safety, and construction safety.

N.C. Residential Building Codes cover most requirements set by HUD standards, plus additional standards for minimum room sizes, light, ventilation, ceiling heights, energy efficiency, conservation of water, the use of foam insulation, and codes related to gas and air conditioning.

- ***Depreciation of manufactured homes, according to appraisers***

Four real estate appraisers agreed that: 1) Lower end manufactured homes (usually single-wides) generally depreciate, especially if they are taxed as personal property (rather than real estate). 2) A better quality, well-built manufactured home generally will appreciate, if: it is a double wide, is unhitched and set on a permanent foundation, has a deck and porch, landscaping, gutters, shingle roof, driveway, is well cared for, in a good location, and if there an active market for that type home.

However, because of the current stigma surrounding manufactured homes, and because of current underwriting/appraising requirements, this type of manufactured home may not appreciate as much as a comparably priced site-built home. In the future, this stigma may diminish, if manufactured homes continue to rise in quality, and if these homes meet N.C. Residential Codes. In that case, appreciation rates for manufactured homes and comparable site built homes may become equal.

- ***Depreciation due to non-compliance with the N.C. Residential Building Codes***

The Housing Authority requires that its money be spent to repair only homes which meet the N.C. Residential Codes. This means that families needing assistance to repair their manufactured home would not be able to get help from the Authority. (Remember, that, by definition, no manufactured homes currently meet N.C. Codes.) This fact could lead to a greater chance of disrepair and further depreciation of many of these homes.

- ***Base fee for a manufactured home***

According to a salesperson at a local mobile home dealer, the least expensive manufactured home which meets appearance standards (of Asheville's Ordinance for Manufactured Housing on Individual Lots) starts at $25,000. Additional costs of land, foundation, grading, sales tax, and closing fees, if needed, would raise this base fee to at least $35,000 to $40,000.

Depending on the interest rate and amount needed for down payment, this type home may not be an affordable home for a low-income person. (see Appendix A., *1992 Low and Moderate Income Guidelines, Asheville, Buncombe*)

- ***Higher interest rates to add more costs for unattached homes***

October, 1992 mortgage rates for "double-wides" which are unhitched and attached to the land are 9.75% fixed rates for 30 years. For unattached double-wides, the rate is 10-12% for 15-20 years. These higher rates will further increase the costs of unattached units.

- ***Higher utility bills due to non-compliance with the N.C. Building Codes***

Manufactured homes are only required to meet HUD standards for insulation, which are not as strict as the N.C. Residential Residential Building Codes. Therefore, costs for heating and air-conditioning may be higher in these homes, than in similar size site-built homes which must meet the N.C. Codes.

* Based on the 1992 *Marshall and Swift Residential Cost Handbook.*

III. Policy Recommendations for Housing

That the City officially endorse and actively pursue the *Housing Goal* of Asheville's 2010 Plan: *"Decent, safe, and sanitary housing provided for all Asheville residents and the elimination of blighted areas in the City through efforts of code enforcement, redevelopment, rehabilitation, and conservation."* In addition, we ask the City to adopt and actively pursue *Housing Policies* which:

1. Set a goal for Asheville to adopt high, uniform standards for all housing under the City's jurisdiction for construction, safety, welfare, and resource efficiency.
   - Manufactured housing should not be exempted from these standards.
   - References for such standards are the N.C. Residential Building Code and the Standard Building Code of the Southern Building Codes Congress International.
   - A timetable for complying with the new standards should be adopted.

2. Reduce costs of residential construction and enhancing livability for all residents (See ***Solutions*** section, which follows).

3. Set annual goals to site and build, buy, or rehabilitate a minimum number of housing units (both single family and multifamily) throughout the City, to meet the needs of low income people. These goals should be achieved by:

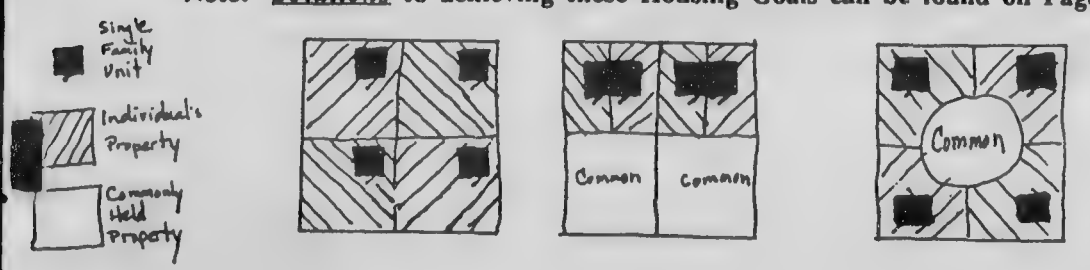
   - Requiring that, for every new or rehabilitated development with six or more residential units, the developer build five percent (or one unit, whichever is greater) low income housing, or provide an equivalent amount of money to an approved city housing program.

   - "Carrots" for this requirement could include allowing more flexible set-backs, allowing increased density while maintaining livability, reducing street pavement width requirements where applicable, etc. The City could pursue enabling legislation for tax abatements or credits for developers who provide low or mixed income housing.

   - If these "carrots" are provided, there must be checks and balances to ensure the City that those units remain affordable for low-income people.

4. Provide low and moderate income housing that:
   a. Is not concentrated in one area (i.e. Housing Projects).
   b. Embodies standards such as landscaping, playgrounds, etc. (and buffers where there are truly incompatible uses), so that low income housing is consistent with surrounding neighborhoods.
   c. Provides enough land in one place for children to play, if the housing is for families (some options are pictured below).
   d. Includes a plan for long-term care and maintenance by the residents of any commonly held ground.
   e. Can appreciate in value for the home owner, to strengthen our city's property tax base.

Note: *Solutions* to achieving these Housing Goals can be found on Pages 4 and 5.



IV. Solutions (through zoning, ordinances, or regulations)

Reducing Housing Construction Costs / Lowering the Cost of Housing

1. Allow flexibility in lot size, density and setback requirements, compatible with the existing neighborhood character, to allow for garden apartments, cluster housing, co-housing, etc. These can be single, detached units on separate, equally sized lots.

2. Encourage zoning and ordinances which allow alternative housing options that lower housing costs while maintaining the integrity of the surrounding neighborhood. Ex: shared housing, ECHO units (Elderly Cottage Housing Opportunities, or "granny flats"), building conversions (e.g., old schools into apartments), accessory or garage apartments, upper story apartments in commercial districts, SROs, or Single Room Occupancy (like studio apartments, except kitchen and bath are shared with others), and tastefully designed duplexes, apartment buildings, cluster homes and condominiums with parking in the back)

Preserving Existing Affordable Housing

3. Discourage zoning changes that would lead to the demolition of decent affordable homes.

4. Encourage the conservation and upkeep of existing neighborhoods and affordable housing stock, by enforcing ordinances designed for that purpose.

5. Ensure replacement of demolished affordable housing units (through incentives, such as allowing well-designed increased densities, or through requirements to replace demolished affordable housing units, such as has been done in Seattle).

6. Provide flexibility in meeting code requirements in historic buildings through the use of the NC "green sheet," Appendix Q of the building code, and the flood plain exemptions for National Register designated properties.

Increasing Livability and Efficient Land Use

7. Utilize traditional town planning and regulations which encourage pedestrian activity and public spaces without unduly discouraging auto traffic (through development of narrow streets, alleys with garage apartments, mixed uses; and reduced setbacks, well-designed higher densities, and smaller lot sizes to make room for open space and parks.)

Money saved or obtained by the above recommendation can help pay for the next two:

8. Require high quality construction in all new residential housing. This should include such things as providing a high level of acoustic separation between adjacent residential units through the use of sound-absorbtion material in the party walls with a high STC rating.

9. Ensure that a portion of the residential units and all of the other units be accessible to the physically disabled.

Manufactured Housing

Currently, manufactured housing in N.C. is required to meet HUD standards, but not N.C. Residential Housing Codes. All other homes are required to meet the N.C. Codes, which may be stricter for construction quality, safety, and resource efficiency. While some of the "higher-end" manufactured homes are good quality, well-insulated homes which will probably appreciate in value, these homes generally are <u>not</u> affordable for low-income people.

CQD believes that all new housing stock (manufactured or other) should be <u>safe</u> and <u>resource efficient</u> and should <u>appreciate in value</u>. Therefore, we recommend:

10. That Asheville adopt high, uniform standards for <u>all</u> housing under the City's jurisdiction for <u>construction</u>, <u>safety</u>, <u>welfare</u>, and <u>resource efficiency</u>.

- Manufactured housing should not be exempted from these standards.
- References for such standards are the N.C. Residential Building Code and the Standard Building Code of the Southern Building Codes Congress International.
- A timetable for complying with the new standards should be adopted.
- Single-wide units should not be required to meet requirements concerned with size, such as ceiling heights, room size, square footage, etc.

11. That existing manufactured homes which do not meet the above standards be grandfathered.

12. That manufactured homes be located in the City via overlay zones, on these conditions:
    - The public (especially the residents who will be directly impacted) and the planning staff agree on where these overlay zones are appropriate.
    - Appearance standards such as roof pitch, landscaping, etc., will be specific to each overlay district

13. That, in order to allow double-wide manufactured homes to fit into neighborhoods without lowering surrounding property values, require roof pitches to be compatible with those of homes in the surrounding neighborhood.

14. That, for all "mobile home parks," or manufactured home rental communities, standards for landscaping and vegetative buffers be established, and that energy efficient underpinning on these homes be required.

15. That these manufactured home rental communities should be considered as a "special use" in districts where such development is generally compatible with the surrounding area, where ingress and egress, and utilities and services are, or can be adequately provided, and where these communities can be placed appropriately via overlay zones.

Solutions (through means other than zoning)

Reducing Housing Costs/Preserving Existing Affordable Housing

a. Establish incentives, perhaps in cooperation with utilities companies, for installing resource efficient appliances and fixtures in new buildings and rehabilitated buildings to lower the dweller's overall housing costs. CP & L's Common Sense Manufactured Homes Program is a good start.

b. Provide support and assistance from the City to affordable housing agencies in their efforts to acquire funds for new construction from the Federal Home Loan Bank in Atlanta and the Commercial Investment Corporation of N.C.

c. Encourage construction of infill housing in historic and older neighborhoods, preserving the character and scale of neighborhoods while optimizing the use of existing city infrastructure.

d. Provide vacant lots (which need to be filled) to non-profits at low or no cost for development of affordable housing, especially for first time, low income home buyers.

e. Preserve and rehabilitate historic buildings, both housing and other buildings converted to housing, and encourage the use of economic incentives for historic building rehabilitation such as Federal Rehabilitation Investment Tax Credit and the Federal Low Income Housing Tax Credit. Urge the State to pass a State low income housing tax credit as exists in Virginia.

f. Maximize the City's use of Community Development Block Grants and New Home Program monies to increase rehabilitation of housing stock.

g. Investigate and implement additional creative funding to help with down payments, to provide assistance in complying with historic regulations, and to encourage rehabilitation of existing affordable housing stock. These include:

- City backing of loans with CBDG
- deferred property tax payments
- second and third mortgages
- deferred loans

EXHIBIT "B"

COALITION OF ASHEVILLE NEIGHBORHOODS

STATEMENT ON MANUFACTURED HOUSING

NOVEMBER 23, 1992

Speaking on behalf of the Coalition of Asheville Neighborhoods, I must say that nobody in an established residential area wants to have a mobile home placed next door. We recognize, however, that construction standards for this type of structure have improved over the past few years and that Asheville should not exclude these dwellings based on past prejudices, especially when the need for housing is becoming more and more demanding. With that in mind, I wish to reinforce the Coalition's formal position on manufactured housing as previously presented to the City in the last UDO hearing on this subject.

Housing is the greatest investment most of us make in our entire lives. The preservation of the value in that investment is ensured when the overall context of a neighborhood is considered when additional housing is built.

The Coalition of Asheville Neighborhoods supports the permitting of manufactured housing in all residential districts <u>provided that overlay districts with appearance standards are put in place and that those standards are specific to each neighborhood.</u> Making appearance standards neighborhood-specific addresses the need for manufactured housing to be compatible in design and quality with the existing and adjacent housing. As you are aware, appearance standards are allowed by the North Carolina General Statutes.

A significant design attribute in our established neighborhoods are steep roof pitches from 6/12 up to and exceeding 12/12. We believe that it is crucial that appearance standards contain regulations which require manufactured housing to have roof systems that are compatible with the neighboring houses in style, pitch and material. Asheville's

recently established ordinance setting standards for individual manufactured homes does not have the flexibility necessary for neighborhood-specific appearance standards to require the roof pitch for a new manufactured home to at least equal the minimum existing roof pitch on established homes in the immediate neighborhood. The Coalition requests that this oversight be corrected.

There is a wide spectrum of quality in both manufactured and stick-built housing. Substandard housing of all forms of construction quickly become a burden for the individual homeowner and an eyesore and hazard for the entire community. The Coalition urges the City to protect the investments that all of us have in our property by holding all forms of housing construction to the same rigorous standards of safety and quality. The stabilization and appreciation of value in our housing stock provides a sound economic base for the City.

Thank you very much for your consideration of our concerns.

Respectfully submitted,

Jimmie C. Lockman

Jimmie C. Lockman, Vice President
Coalition of Asheville Neighborhoods

Tuesday - December 8, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the November 17, 1992, and November 23, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. RESOLUTION NO. 92-167 - RESOLUTION IN MEMORY OF ETHEL PEARSON DAILEY

Mayor Michalove read the resolution in memory of Ethel Pearson Dailey and presented the resolution to members of her family present. He expressed the City of Asheville's sincere sympathy upon her passing.

Resolution No. 92-167 was adopted by acclamation.

RESOLUTION BOOK 19 AT PAGE 340

B. RESOLUTION NO. 92-168 - RESOLUTION IN MEMORY OF C.L. MOORE JR.

Mayor Michalove read the resolution in memory of former Coach C.L. Moore, Jr., expressing the City of Asheville's sincere sympathy upon his passing.

Resolution No. 92-168 was adopted by acclamation.

RESOLUTION BOOK 19 AT PAGE 341

C. PRESENTATION BY LUCY STRONG AND JANIE WILSON RELATIVE TO GLAD BAG-A-THON PROGRAM

Ms. Janie Wilson, representative from Quality Forward, spoke about Quality Forward's recycling program.

Ms. Lucy Strong, representative of Glad Wrap and Bags, presented Ms. Wilson with two checks totalling $4,500 for the Glad Bag-A-Thon Program.

D. RESOLUTION NO. 92-169 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CHARLES L. JOHNSON

Mayor Michalove read the resolution stating that Charles Johnson has been with the City for 12 years and has requested retirement from his position as Laborer Sr. at the Civic Center. He expressed the City Council's appreciation to Charles for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-169 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 342

E. RESOLUTION NO. 92-170 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD LEDBETTER

Mayor Michalove read the resolution stating that Richard Ledbetter has been with the City for 23 years and has requested retirement from his position as Police Lieutenant in the Police Department. He expressed the City Council's appreciation to Richard for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-170 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 343

F. RESOLUTION NO. 92-172 - RESOLUTION RECOGNIZING THE RETIREMENT OF TAZMANIAN

Police Chief Beavers stated that Tazmanian, the Asheville Police Department K-9 Drug dog, has had to retire. Tazmanian has been a loyal and dedicated employee for both the SBI and the Police Department for 9 years. His efforts have resulted in the seizure of $186,000 in currency, 12 kilos of cocaine and one vehicle. He has participated in over 15 department sponsored public relations programs and 12 community level drug investigations resulting in numerous arrests.

Resolution No. 92-172 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 345

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A VARIANCE ON THE RIGHT-OF-WAY WIDTH FOR THE TACO BELL SUBDIVISION

Mayor Michalove opened the public hearing at 4:26 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Mary Weber, Urban Planner, said that this property is located on 1897 Hendersonville Road. She said the developer has requested a variance for the width of the right-of-way that extends to the rear of the property. The subdivision regulations require a 50 foot right-of-way and the developer is requesting a variance to decrease this to 40 feet. At the Planning and Zoning Commission's meeting on November 4, 1992, they voted to recommend approval of the variance request if a letter was submitted by the Public Works Director agreeing with the request. A letter supporting the variance has been submitted by Assistant Public Works Director Larry Ward.

Upon inquiry of Councilman Moore, David Matney, attorney representing M. Realty Limited Partnership, said that the variance is being requested because in working with Taco Bell's design staff (with all the drive throughs), the property is not wide enough in the back to have 50 feet of right-of-way. He said it was not enough space for them to meet the parking requirements, the minimum road widths and the minimum building size.

Ms. Ruby Hernandez, Horse Shoe, North Carolina, was concerned about the access to the rear lot behind Taco Bell.

Ms. Weber stated that Ms. Hernandez's concern could not be addressed at this time because it depends on the future development of the rear lot behind Taco Bell.

Mr. Roy Hardee, 7 Gerber Road in Asheville, questioned which side of the property the variance is being requested for.

Mr. William Shuford, 52 Clingman Avenue in Asheville, had a concern about the variance if the property had to be foreclosed on.

City Attorney Slawter explained that the variance runs with the land but if the property owner does not take out a building permit within a certain period of time, the variance is null and void.

Mayor Michalove closed the public hearing at 4:50 p.m.

Vice-Mayor Ellison moved to grant the variance for a 40 foot right-of-way instead of a 50 foot right-of-way in the Taco Bell Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. PUBLIC HEARING RELATIVE TO 21 HAYWOOD STREET GROUP DEVELOPMENT

Mayor Michalove opened the public hearing at 4:51 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Mary Weber, Urban Planner, said that this group development request is for the adaptive reuse of the old Revco building on 21 Haywood Street. The proposal is to construct eight residential units, a retail space, and an office in the 19,000 square foot space. Part of the project was reviewed and approved earlier as a small project. The group development review is for six of the residential units. The project is located in the Central Business Zoning District and required Downtown Design Review.

Ms. Weber said that parking will be accommodated by building a pedestrian bridge to the Rankin Garage where twelve spaces will be rented. The owner has worked with the City's Legal staff to obtain an easement for the bridge.

She said that the site plan meets all of the requirements of the Asheville Zoning Ordinance and that on September 29, 1992, the City Council approved a variance from the standards for construction in the City's Fire District.

Ms. Weber stated that all utilities are available for the project and there will be adequate fire protection. The Asheville Planning and Zoning Commission recommended approval at their November 4, 1992 meeting.

Mr. Jim Samsel, architect, drew what the proposed bridge would look like.

Upon inquiry of Councilman Swicegood, Mr. Samsel said that the City would be losing one parking space at the entrance of the bridge.

When Councilman Swicegood questioned what the City's liability would be relative to this bridge, City Attorney Slawter said that in any project the City undertakes there is some potential for liability. However, the agreement between the City and the developer does indemnify the City for any liability and also provides for the developer to provide a minimum of $1 Million insurance to cover the City if any liability might arise.

Vice-Mayor Ellison stated that the developer has agreed to enclose the bridge which would eliminate his safety concern.

Vice-Mayor Ellison questioned the benefit the City would be receiving if the bridge were built because the City would actually be losing the rent of one parking space.

City Manager Bean said that one benefit would be the ability to lease additional spaces on the top of the parking garage and felt that an additional benefit would be the increased tax value by having the building renovated.

Mr. Don Martell, developer, stated that he would be willing to pay the $30 per month to the City for the loss of the one parking space. He feels that a major benefit to the City will be the increased of taxes which he estimates the increase of $1,400 a year to $13,000 a year. He explained the safety features associated with the parking garage.

Mayor Michalove closed the public hearing at 5:08 p.m.

Councilwoman Field moved to approve the 21 Haywood Street group development project, with the developer paying $30.00 a month for the loss of the parking space and the developer enclosing the bridge. This motion was seconded by Vice-Mayor Ellison.

Ms. Dee Williams asked the Council to take closer looks at issues when a private developer attaches his building onto a publicly owned building. She felt Councilwoman Field had a conflict of interest because Mr. Martell holds a mortgage on her building which is next to 21 Haywood Street.

When Councilwoman Field asked City Attorney Slawter if she in fact had a conflict of interest since she owned 1/11th of her building, City Attorney Slawter said that it is Council's duty to vote on all matters except where their own personal conduct or financial gain is involved. He felt that merely because she is a partner in a partnership that owes a mortgage to Mr. Martell, there would be no conflict.

Mr. Barry Olen, member of the Downtown Commission and member of the Downtown Association, spoke in favor of the group development stating that this residential development is good for the downtown area.

At this time, the above motion was voted on and carried unanimously.

C. PUBLIC HEARING RELATIVE TO SUBMISSION OF THE COMPREHENSIVE HOUSING AFFORDABLE STRATEGY TO THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mayor Michalove opened the public hearing at 5:18 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Marvin Vierra, Community Development Director, said that the City of Asheville, as Lead Entity for the Asheville Regional Housing Consortium, is required to adopt the Comprehensive Housing Affordable Strategy (CHAS) to be eligible for funding under certain HUD programs. The CHAS identifies housing needs and analyzes institutional capacity and available resources to address the needs. The CHAS also contains five year priorities and a one year plan. The total housing needs within the region covered by the Consortium are 45,678 units. Priority for housing will be for low income rental units.

Mayor Michalove closed the public hearing at 5:25 p.m.

Mayor Michalove said that a resolution to adopt the consolidated CHAS would be considered at the December 15, 1992, meeting.

D. PUBLIC HEARING RELATIVE TO THE FILING OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION FOR SECTION 3 FUNDS FOR DESIGN AND CONSTRUCTION OF A BUS TRANSFER FACILITY AND BUS REPLACEMENT

RESOLUTION NO. 92-173 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO FILE A SECTION 3 DISCRETIONARY GRANT APPLICATION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, PUBLIC TRANSPORTATION DIVISION

Mayor Michalove opened the public hearing at 5:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove said that the application will be for the purpose of capital equipment procurement and facility construction for the Asheville Transit Authority. He said the Transit Authority voted unanimously to pursue the move of the facility to Aston Street. The estimated net project cost is $4,338,000. The federal share is estimated at $3,470,400 and the state share is estimated at $433,800. The local share is estimated at $433,800.

Mayor Michalove felt that the consensus of Council was to move the bus transfer facility from Pritchard Park to Aston Street in accordance with the recommendations of the Transit Authority and Councilmen Moore and Peterson (who are liaisons to the Transit Authority).

City Manager Bean said that as a result of a number of questions being asked by the Council at the hearing held recently, several items have been furnished to the Council, e.g., information for the downtown transfer facilities, site locations for the transfer facility, traffic count information for the Aston Street/Prichard Park areas, advantages and disadvantages of the Aston Street/Pritchard Park areas, the cost of transfer facility passenger amenities, and operations budget comparison for the transfer facility sites.

By use of charts, City Manager Bean explained the two proposals that would upgrade service at Pritchard Park. He said that Pritchard Park 1, as it presently exists has adequate space for 8 buses around the perimeter. The Park has provided sufficient space for the transferring activity of the transit passenger but does not allow room for any expansion of services. The current configuration of bus islands forces the rider to cross the existing bus lane to access their particular bus. To make the transferring activity safer, a redesign of traffic patterns would be ideal. If the decision is to maintain the transfer facility at the Park (as it currently exists) and to construct the proposed passenger amenities within the Park area, this decision would eliminate any opportunity for the transit system to expand to a full pulse operation.

He when on further to explain Prichard Park 2, by saying that the possibility of expanding transit operations to full pulse and provide safe pedestrian circulation at the Park does exit, but there are several disadvantages to this proposal. The existing traffic patterns of the bus and other vehicles would be impacted. Reversing the direction of bus flow to the Park on Patton Avenue and College Street

would create a greater traffic congestion problem that currently exists around the Park. Installation of more traffic and pedestrian signalization would be required and overall implementation of the full pulse concept would impact daily transit operations. Therefore, to change the direction of bus flow and enlarge the Park to allow for a full pulse operation would cause traffic safety hazards, increase the "wall of steel" and/or idling buses, and confine more buses at one time to an enclosed area that needs quality environmental consideration.

City Manager Bean said that if this grant can only be used for the transfer site and bus replacement. He said the estimated cost to build the new Aston Street facility would be $614,000. He said the minimum cost to do something to Pritchard Park if the bus facility moves will be $30,000. That will be the cost for demolition of the shelter, the fountains and the islands and also includes money for trees and sod.

At this time (5:45 p.m.) the Council took a five minute recess. The Council resumed its meeting at 5:50 p.m.

Ms. Mary Robertson, felt that all the problems at Pritchard Park will follow the bus facility to Aston Street. She spoke against the move.

Mr. Tim Towery spoke in opposition of the move to Aston Street. He felt there was more security in the downtown area. He urged the Council to upgrade Pritchard Park and felt it would be more cost effective in the long run.

Ms. Jan Stanko, 26 Greenleaf Circle, spoke against the bus facility moving to Aston Street. She hoped the Council would upgrade Pritchard Park.

Ms. Elsie Sweeney, spoke against the move of the bus facility to Aston Street. She felt Pritchard Park was very convenient and asked that it be improved.

Mr. Edison Hill, attorney representing 2 property owners in the Aston Street area, spoke in opposition of the move to Aston Street.

Ms. Dee Williams felt that it would be a tremendous hardship on the riders of the buses to move the facility to Aston Street.

Vice-Mayor Ellison stated that he would vote against the move because this was the first time he saw the two

alternate proposals for Pritchard Park. He felt those should have been available prior to this time. He did, however, express his support of the Asheville Transit Authority.

Councilman Moore stated that he was in favor of the move to Aston Street because he was convinced that the greatest number of bus riders will benefit from this change.

In response to some questions Mayor Michalove had, Mark Rickards, Manager of the Transit Authority, said that bathrooms will be available for riders only, ticket takers will be in radio contact with the police, the new buses will hopefully curb maintenance road calls, and because the buses will not have to go through downtown traffic, buses will get to Aston Street quicker. He said that there will also be a stop at Prichard Park for those who wish to exit the buses there.

City Manager Bean said that since the application will be for the funds to design and plan the bus transfer facility, bus riders will have an opportunity to meet with the architect and help in the design.

Councilman Peterson supported the move to Aston Street not only because he felt it was the best for the greater number of citizens but also because he was in the process from the beginning and saw the hard work and studying that went into a venture like this.

Mr. Larry New, representative of the Chamber of Commerce, read the Chamber's endorsement of the full pulse system.

Ms. Erline McQueen, spoke in support of the move of the bus transfer facility to Aston Street. She felt it would be good to have a nice, secure bus facility with restrooms.

Mayor Michalove closed the public hearing at 6:32 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved to adopt Resolution No. 92-173. This motion was seconded by Councilman Peterson and carried on a 6-1 vote, with Vice-Mayor Ellison voting "no."

Vice-Mayor Ellison moved to support the Asheville Transit Authority and to make the motion unanimous for adoption of Resolution No. 92-173. This motion was seconded by Councilman Moore and carried unanimously. Therefore, Resolution No. 92-173 carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE 346

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-174 - RESOLUTION ESTABLISHING THE CITY OPERATIONS ADVISORY COMMISSION

City Manager Bean said that the role of the City Operations Commission ("Commission") is to first review City operations and systems, by department, in accordance with priorities established by City Council, and encourage the employees of each department to discover ways on their own that they can do their jobs in a more effective and efficient manner. Second, the Commission is to seek to discover inefficiencies, if they exist, that cannot be readily solved at the employee level and to recommend corrective actions and/or suggestions that are operational in nature to the City Manager with a copy of City Council. Any recommended corrective actions and/or suggestions that would require a substantial change in any policy established by City Council shall be presented to City Council with a copy to the City Manager.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 92-174. This motion was seconded by Councilman Moore and carried on a 6-1 vote, with Mayor Michalove voting "no".

Councilman Moore moved to make adoption of Resolution No. 92-174 unanimous. This motion was seconded by Councilman Worley and carried unanimously. Therefore, Resolution No. 92-174 carried unanimously.

RESOLUTION BOOK NO. 19 AT PAGE

B. ORDINANCE NO. 2000 - ORDINANCE AMENDING CHAPTER 18, SECTION 18-5 OF THE CODE OF ORDINANCES PROHIBITING BEGGING

City Attorney Slawter gave a report to the Council as requested by the Council at their November 17, 1992, meeting.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved to adopt Draft B of Ordinance No. 2000, which makes it unlawful for any person to beg by (a) accosting another person or (b) forcing oneself upon the company of another. The ordinance will provide for a grace period of 30 days after date of final adoption and will thereafter provide for the following punishment: (a) payment of court costs only upon a first offense; (b) up to 5 days in jail and up to $50.00 in fine for a second offense; and (c) up to 30 days in jail and up to $500.00 in fine for a third or subsequent offense. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2000 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2000. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2000 passed on its second reading.

C. ORDINANCE NO. 2001 - AN ORDINANCE AMENDING SECTION 28-82 AND SECTION 28-82.1 OF ARTICLE IV, SPEED REGULATION, OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Manager Bean stated that a letter has been received from Douglas L. Pearson, Superintendent of Asheville City Schools, requesting that the enforcement time of the adjusted speed limit in City school zones be from 7:00 a.m. to 9:00 a.m. instead of 7:30 a.m. to 9:00 a.m. He said that with the change to magnet schools in all of the elementary schools, children have to catch buses earlier and walk to school earlier in the morning.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2001. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2001 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2001. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2001 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2001. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2001 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 164

E. ORDINANCE NO. 2002 - BUDGET AMENDMENT FOR "LEGACY OF EXCELLENCE" TEAM TRAINING

City Manager Bean said that this budget amendment, in the amount of $59,000, will provide for the "Legacy of Excellence" team training.

At the request of Council, City Manager Bean explained how the team training will work.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2002. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2002 was unanimously adopted on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 165

V. CONSENT:

A. MOTION TO SET A PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO REZONING OF 1250 MERRIMON AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

B. MOTION TO SET A PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO PARTIAL REZONINGS OF 21 AND 29 LAKESHORE DRIVE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

C. MOTION TO SET A PUBLIC HEARING ON DECEMBER 22, 1992, RELATIVE TO PRELIMINARY PLAT APPROVAL AND REQUEST FOR A VARIANCE FOR A REDUCTION IN THE CUL-DE-SAC RIGHT-OF-WAY RADIUS IN FOREST LAKE SUBDIVISION

D. MOTION TO SET A PUBLIC HEARING ON DECEMBER 22, 1992, RELATIVE TO AN ORDINANCE AMENDMENT TO THE MEMBERSHIP AND POWERS OF THE BOARD OF ADJUSTMENT

E. MOTION TO SET A PUBLIC HEARING ON DECEMBER 22, 1992, RELATIVE TO AN ORDINANCE AMENDMENT PROVIDING FOR THE CONSTITUENCY OF THE PLANNING AND ZONING COMMISSION

F. RESOLUTION NO. 92-175 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED, UNOPENED RIGHT-OF-WAY OFF SAND HILL ROAD BETWEEN POPPLE STREET AND DELAWARE AVENUE AND SETTING A PUBLIC HEARING FOR JANUARY 19, 1993

RESOLUTION BOOK NO. 19 AT PAGE 350

G. RESOLUTION NO. 92-176 - RESOLUTION OF INTENT TO CLOSE A PORTION OF KEEVER ROAD AND SETTING A PUBLIC HEARING FOR JANUARY 5, 1993

RESOLUTION BOOK NO. 19 AT PAGE 352

H. RESOLUTION NO. 92-177 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 19, 1993, TO LEVY SPECIAL ASSESSMENTS FOR THE KITCHEN PLACE PROJECT

RESOLUTION BOOK NO. 19 AT PAGE 354

I. RESOLUTION NO. 92-178 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 19, 1993, TO LEVY SPECIAL ASSESSMENTS FOR THE BOSTON WAY PROJECT

RESOLUTION BOOK NO. 19 AT PAGE 356

J. **RESOLUTION NO. 92-179 - PRELIMINARY RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 19, 1993, TO LEVY SPECIAL ASSESSMENTS FOR THE SONDLEY ESTATE PROJECT**

RESOLUTION BOOK NO. 19 AT PAGE 358

K. **RESOLUTION NO. 92-180 - RESOLUTION AUTHORIZING THE SALE OF A USED VEHICLE TO THE ASHEVILLE AREA RESCUE SQUAD**

Summary: The City of Asheville presently owns a 1985 Ford 3/4 ton pickup truck which has been declared surplus by the Fleet Management Division and the Asheville Area Rescue Squad has need of this vehicle.

RESOLUTION BOOK NO. 19 AT PAGE 380

L. **RESOLUTION NO. 92-181 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION FOR BALLFIELD LIGHT INSTALLATION AT VALLEY SPRINGS AND VANCE ELEMENTARY SCHOOL**

Summary: The Parks and Recreation Department has determined that it is necessary to upgrade and install ballfield lights at Valley Springs and Vance Elementary School as part of its continuing Capital Improvements Program. Bids were received from Haynes Electric Utility Corporation in the amount of $118,919; Floyd S. Pike Electric Company in the amount of $126,850; and Emory Electric Company in the amount of $139,175. This resolution will authorize the City Manager to enter into a contract with Haynes Electric Utility Corporation in the amount of $118,919.

RESOLUTION BOOK NO. 19 AT PAGE 361

M. **RESOLUTION NO. 92-182 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE AN EASEMENT IN FAVOR OF SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY**

Summary: Southern Bell Telephone and Telegraph Company has requested that the City execute a right-of-way site easement on City property located on Airport Road in order to service the Asheville Regional Airport.

RESOLUTION BOOK NO. 19 AT PAGE 362

N. **RESOLUTION NO. 92-183 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF PERSONAL PROPERTY BY PRIVATE SALE**

Summary: This resolution will authorize the Purchasing Director to trade in 3 dictaphone model 1100 message repeaters at $800.00 each and the purchase of 4 dictaphone model 5714/187014 digital message repeater systems at $2,732.00 each. Purchase and trade-in to be made with Dictaphone Corporation. Total bid of $10,928 less trade-in of $2,400 results in a net bid of $8,528 for the purchase of the 4 new units.

RESOLUTION BOOK NO. 19 AT PAGE 363

O. **MOTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO SELL ONE DISPOSAL PARCEL IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROJECT AREA AND ONE DISPOSAL PARCEL AND ONE VACANT HOUSE IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT AREA**

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. **GROUP DEVELOPMENTS**

Mr. Tony Nicholson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on December 2, 1992:

PACE MEMBERSHIP WAREHOUSE

Ms. Weber said the Shopping Center Group is proposing the construction of a Pace Membership Warehouse to be located at the south corner of the intersection of I-240 and U.S. 74. The 108,000 sq. ft. building will be one story and used for retail sales. The 12.5 acre site is zoned Light Industrial and is bordered by the I-240, U.S. 74, and Norfolk Southern Railroad rights-of way. The main entrance

to the site will be from U.S. 74 and will align with the I-240 access ramp. A secondary entrance will be located on Fairview Road and align with Broadview Road. The proposed development meets the requirements of the Asheville Zoning Ordinance, including parking and landscaping.

At their November 4, 1992, meeting, the Planning and Zoning Commission voted to table their decision on the project until all permits and approvals were obtained. After obtaining approvals for the availability of services from the Water Engineering Department, Metropolitan Sewerage District, and Fire Department and obtaining all necessary approvals from the Norfolk Southern Railroad, the project was reviewed by the Planning and Zoning Commission at their December 2, 1992 meeting. The Commission voted to recommend approval with three conditions. They are as follows:

1. Obtain driveway permits from NCDOT and the City of Asheville.

2. Submit a copy of the license agreement for the railroad crossing to the Planning Department.

3. The license agreement must be approved by the staff of the Planning and Legal Departments.

We have received comments from several surrounding property owners who are concerned about increases in traffic on Fairview Road as a result of the construction of the development.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

MEMORIAL MISSION HOSPITAL CHILLER

The group development request is for a new building at Memorial Mission Hospital at 509 Biltmore Avenue. The new building will house the cooling system for the hospital. It will be a two stories high and 10,000 square feet.

The building will not require any additional parking or landscaping requirements. The project meets the requirements of the Asheville zoning ordinance. At their December 2, 1992, meeting, the Planning & Zoning Commission recommended approval of the project with two conditions. The conditions are that the developer must get letters of allocation for sewer and water.

There have been two phone calls regarding the project. The callers wanted further information on the project but expressed no opposition.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

UNC-A DINING HALL - PARKING DECK

Ms. Weber said the University of North Carolina at Asheville is proposing a dining hall with two levels of parking to be included within the structure. Each level of the building will have 19,000 square feet of gross floor area. The two levels of parking will include 97 parking spaces.

The site location is interior to the campus. No additional access is required to the site. Water and sewer are available on the site and adequate fire protection is available. The project meets all of the requirements of the City's Zoning Ordinance.

The Planning and Zoning Commission originally approved the site plan on April 3, 1991, and the City Council approved it on April 9, 1991. The applicant never obtained a zoning permit so the site plan must be reaffirmed since more than one year has passed. The only changes to the site plan are a slight shift of the building orientation and the relocation of a service road.

At their December 2, 1991, meeting, the Asheville Planning and Zoning Commission voted to reaffirm their approval of the site plan.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

B. CLAIMS

The City Manager stated that the following claims were received by the City of Asheville during the week of November 16-20, 1992: Tamara Pressley (Water); Thomas Terry Jr. (Water); Amy Plankenhorn (Water); YMI Cultural Center (Water); Elinor Lytle (Water); Fredrickson Trucking (Water); Virginia Parker (Water); and Joe Meadows (Streets).

He said the following claims were received during the week of November 23-27, 1992: Shirley Edmonds (Fire) and Annette Chamberlain (Water).

He said the following claims were received during the week of November 30 - December 4, 1992: Crowfields Condos (Sanitation); James Stanley (Water); Mae Monroe (Water); and Toby Cole (Water).

He stated that these claims have been referred to the appropriate insurers for investigation.

C. **LAWSUIT**

City Manager Bean said that the City was served with a lawsuit on December 7, 1992, in which Jack McIntyre is the plaintiff. He said that this lawsuit has been turned over to the appropriate legal counsel for action.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:04 p.m.

William D. Bolcott Jr. — CITY CLERK

H. M. Michalove — MAYOR

Tuesday - December 15, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the December 8, 1992, City Council minutes as submitted.

ANNOUNCEMENT RELATIVE TO ITEM REGARDING DEMOLITION OF 10 SUNSET SUMMIT

Mayor Michalove stated that it was the consensus of the City Council to table the third and final reading of an ordinance directing the Director of Building Inspections to demolish 10 Sunset Summit until January 19, 1993. He did state, however, that the Council would take comments from the public when the item appears further into the agenda.

I. PROCLAMATION:

A. RESOLUTION NO. 92-171 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ALVIN W. WHITTED

Mayor Michalove read the resolution stating that Alvin Whitted has been with the City for 18 years and has requested retirement from his position as Laborer Sr. in the Street Division of the Public Works Department. He expressed the City Council's appreciation to Alvin for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-171 was adopted by acclamation.

RESOLUTION BOOK NO. 19 AT PAGE 344

B. RESOLUTION NO. 92-184 - RESOLUTION OF APPRECIATION TO DORIS P. GIEZENTANNER, FORMER BUNCOMBE COUNTY COMMISSIONER

Mayor Michalove read the resolution expressing the City Council's sincere appreciation and thanks to Doris Giezentanner for her distinguished service to the community, and highly commended her for the manner in which she carried out her duties and responsibilities as a former member of the Buncombe County Board of Commissioners.

Resolution No. 92-184 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 1

C. RESOLUTION NO. 92-185 - RESOLUTION OF APPRECIATION TO JESSE I. LEDBETTER, FORMER BUNCOMBE COUNTY COMMISSIONER

Mayor Michalove read the resolution expressing the City Council's sincere appreciation and thanks to Jesse Ledbetter for his distinguished service to the community, and highly commended him for the manner in which he carried out his duties and responsibilities as a former member of the Buncombe County Board of Commissioners.

Resolution No. 92-185 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 2

D. RECOGNITION OF ROBIN WESTBROOK, PUBLIC INFORMATION OFFICER

City Manager Bean recognized Mrs. Robin Westbrook who received an Award for Excellence in Public Relations. She won Second Place in Print Advertising in 1992 for her work with the City Works Page.

E. RECOGNITION OF ROBERT GRIFFIN, SENIOR OFFICER OF THE ASHEVILLE FIRE DEPARTMENT

City Manager Bean recognized Mr. Robert Griffin who, in 1991, was the City's loaned executive to United Way. This year Robert was asked, and he accepted, the challenge of "Pacesetter Chairman" - the "chief" loaned executive. While United Way as a whole did not meet this year's goal, United Way officials expect pledges to reach a new record - in excess of $4 Million. As Pacesetter Chairman, Robert played a pivotal role in that success.

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNOPENED PORTION OF CLOYES STREET

RESOLUTION NO. 92-186 - RESOLUTION TO CLOSE THE UNOPENED PORTION OF CLOYES STREET IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Public Works Director, stated that when the property in the Cloyes Street and Craggy Avenue area was subdivided, the original subdivision allowed for Cloyes Street to be connected to Craggy Avenue. In constructing the streets, the developer did not construct Cloyes Street all the way to Craggy Avenue. The portion that was never built is the portion being petitioned to be closed.

He said all the owners, with the exception of one, has signed the petition. The property owner who declined to sign the petition will still have public street access to their property from both Dysart Street as well as the opened portion of Cloyes Street. He said the natural lay of land along the unopened portion of Cloyes Street would make it quite difficult and expensive to construct a street within the right-of-way being petitioned for closing.

Upon inquiry of Councilman Worley on the reason why the one property owner did not sign, Mr. Ewing stated that because of the health of her mother (property owner), the daughter did not wish to sign the petition.

Mayor Michalove closed the public hearing at 4:19 p.m.

Mayor Michalove stated that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-186. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 3

III. OLD BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 1958 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT, ASHEVILLE, NORTH CAROLINA**

Mayor Michalove stated that the first reading of this ordinance passed on January 7, 1992, and the second reading passed on January 21, 1992.

Councilwoman Field moved to table the third and final reading of Ordinance No. 1958 until January 19, 1993, and requested that the cost of demolition of the structure, at this stage, be made available to the Council. This motion was seconded by Councilman Worley.

Mr. Ken Maultsby, current owner of the house, passed around pictures of the structure taken two weeks ago. By the use of plans, he reviewed some statistics of the house. He stated that the crane is on its way to the property to begin the next stage of demolition; however, it is his desire not to do any further demolition, but complete construction of the residence using what is left of the current structure. He stated that the Zoning Administrator is currently reviewing new plans providing for further demolition of the front portion of the structure so that everything above ground, other than the driveway and its support, would be set back 35 from the street. He felt that if the City proceeds with the final reading of this ordinance today, the cost for demolition of the structure will be borne by the taxpayers. He said it was his intent to restore the site to its highest and best use - a single family dwelling.

Mr. Joe McGuire, attorney representing Mr. Myers, Mr. Haywood and the Sunset Mountain Homeowners Association, spoke in support of the total demolition of 10 Sunset Summit. He stressed that Mr. Maultsby knew when he purchased the house that there was a condition attached to it for total demolition of the structure. He said that other bidders bid with the understanding that the house would have to be totally demolished - not partially demolished. He said that had the other bidders known that only partial demolition would be acceptable to the City, Mr. Maultsby's bid would have perhaps been overturned. He felt that anything other than total demolition of the house would be extremely unfair to the other bidders. He urged the Council not to ignore 8 years of violation.

In response to Councilman Worley's question regarding if the property owners would have any problem with total demolition and then rebuilding on the same levels complying with all Code requirements, Mr. McGuire stated that he had not discussed this issue with his clients but felt that the agreement incorporated into the variance would prohibit rebuilding on the same levels.

There was some discussion on the intent and purpose of the demolition order.

The motion above to table Ordinance No. 1958 until January 19, 1993, was carried unanimously.

B. THIRD READING OF ORDINANCE NO. 2000 - AN ORDINANCE AMENDING CHAPTER 18, SECTION 18-5 OF THE CODE OF ORDINANCES REGULATING BEGGING

City Attorney Slawter reviewed the current ordinance before the Council which makes it unlawful for any person to beg by (a) accosting another person or (b) forcing oneself upon the company of another. The ordinance will provide for a grace period of 30 days after date of final adoption and will thereafter provide for the following punishment: (a) payment of court costs only upon a first offense; (b) up to 5 days in jail and up to $50.00 in fine for a second offense; and (c) up to 30 days in jail and up to $500.00 in fine for a third or subsequent offense.

Upon inquiry of Mr. Ralph Bishop, City Attorney Slawter stated that it would be at the judge's discretion whether to impose a fine or perhaps impose community service upon the offender.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 7-0, Ordinance No. 2000 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 162

IV. NEW BUSINESS:

A. RESOLUTION NO. 92-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH RESEARCH AND EVALUATION ASSOCIATES, INC., TO CONDUCT A MINORITY BUSINESS DISPARITY STUDY

Ms. Marilyn Nason, member of the Minority Business Commission, said that in 1989 the Supreme Court determined that municipalities must document discrimination. The firm of Research and Evaluation Associates, Inc., is recommended by the Commission to conduct the study. This firm has a proposed fee of $114,729 to conduct the study - $83,637 from CDBG funds and $31,092 from the Asheville-Buncombe Water Authority. This is based on the Water Authority annual budget (approximately $16 million) as a percentage (27.1%)

of the total budget of the City (approximately 59 million). He said this is subject to the CDBG allocation/budgeting process for next fiscal year. He said only $45,000 is appropriated thus far from CDBG funds for the study.

Ms. Nason said the study will examine the City's records for the past 10 years to determine whether disparity exists in the award of City contracts. Remedies will be recommended by the consultant to overcome disparity if it exists. An assessment of the availability of minority businesses will be made and a profile developed. The City's current Minority Business Plan will be critiqued with respect to information gathered and a legal analysis will be conducted to ensure the City's plan meets the requirements. Interviews and surveys will be conducted with elected officials, department heads, technical assistance providers, minority and non-minority businesses. A public hearing will be conducted with respect to recommendations made by the consultant firm to amend the plan based on findings of the study.

Upon inquiry of Vice-Mayor Ellison, Mr. Ronald Blythe and Ms. Marilyn Bass explained that the reason why the Commission is recommending the second low bid on this study is because the price is low compared to the expertise of this firm.

Mayor Michalove stated that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-187. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 5

B. RESOLUTION NO. 92-188 - RESOLUTION TO ADOPT THE CONSOLIDATED COMPREHENSIVE HOUSING AFFORDABILITY STUDY

Mayor Michalove stated that the public hearing on this issue was held on December 8, 1992.

Mr. Marvin Vierra, Community Development Director, said that the City of Asheville, as Lead Entity for the Asheville Regional Housing Consortium, is required to adopt the Comprehensive Housing Affordable Strategy (CHAS) to be eligible for funding under certain HUD programs. The CHAS identifies housing needs and analyzes institutional capacity

and available resources to address the needs. The CHAS also contains five year priorities and a one year plan. The total housing needs within the region covered by the Consortium are 45,678 units. Priority for housing will be for low income rental units.

Mayor Michalove stated that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 92-188. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 6

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH RESIDENTS OF THE CARTER COVE ROAD AREA

Councilman Moore moved to excuse Councilman Worley from participating in this issue due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Charles Penny, Assistant City Manager, said that the property owners within the Carter Cove area desire to have the City construct a new bridge on Carter Cove Road and the City is agreeable to doing so, but it only able to fund the construction by delaying the construction of proposed sewer lines in the Carter Cove area as called for in the plan for extension of major municipal services into the Beaverdam Valley annexation area which was adopted by City of Asheville Resolution No. 88-132 on August 9, 1988.

He said the property owners within Carter Cove have agreed to forego the right to the proposed sewer lines until May 31, 1997, in exchange for the agreement of the City to bear the primary cost of the construction of a new bridge along Carter Cove Road crossing Beaverdam Creek. He said that the agreement calls for the property owners to pay $12,500 and the City to pay the remainder of the cost of bridge construction. He said that the City's engineering staff estimated the construction cost to be approximately $100,000.

Upon inquiry of Councilman Peterson, Mr. Penny said that there will be one lane of the bridge open at all times for emergency vehicles.

Upon inquiry of Vice-Mayor Ellison on why the City could not put a cap at this time on how much the City would have to expend on the bridge construction, Mr. Penny explained that the project has not yet been put out for bid and therefore only an estimated figure can be obtained.

Mr. Penny explained that the City needed to move quickly on this because if the project was not started on immediately, sewer line design and placement would have to be in place by May 31, 1993, to comply with the annexation statutes.

Councilwoman Field stated that from her experience in estimation of construction costs, she felt that if the engineering staff estimated $100,000, it was very possible that construction not be much more than that, if any.

Vice-Mayor Ellison moved to approve the Mayor to execute agreements with the residents of the Carter Cove Road area, with the condition that the City not spend more than $125,000 on the construction of the bridge. This motion was seconded by Councilwoman Field and carried unanimously.

Because of some concerns City Attorney Slawter expressed in relation to the agreement signed by the property owners, the motion to approve the Mayor to execute agreements with the residents of the Carter Cove Road area, with the condition that the City not spend more than $125,000 on the construction of the bridge was withdrawn, along with the second by Councilwoman Field.

Vice-Mayor Ellison moved to submit this bridge construction project out for bid. This motion was seconded by Councilman Swicegood and carried unanimously.

D. RESOLUTION NO. 92-189 - RESOLUTION ESTABLISHING A DEFERRED COMPENSATION PLAN FOR CITY EMPLOYEES IN THE CLASSIFIED AND ADMINISTRATIVE SERVICE

Mrs. Pam McGrayne, Personnel Director, said that this resolution will establish a deferred compensation plan for City of Asheville employees that will serve the interests of the City enabling it to provide reasonable retirement security for those employees in the Classified and Administrative Service.

Mayor Michalove stated that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-189. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 8

E. BUDGET ORDINANCE NO. 2003 - BUDGET AMENDMENT TO TRANSFER APPROPRIATIONS IN THE CAPITAL PROJECTS FUND FOR THE INSTALLATION OF THE DIESEL FUME EXHAUST SYSTEM FOR FIRE STATIONS 7 AND 9

Fire Chief John Rukavina said that this fiscal year's Capital Improvement Plan includes $24,000 for installation of diesel exhaust ventilation systems at Fire Stations 7 (Larchmont) and 9 (Oakley). Installation of these systems will reduce firefighter exposure to diesel exhaust fume toxins in fire stations. The actual cost of these systems will exceed the budgeted amount of $624. However, Buncombe County EMS will be soliciting capital funds in January to reimburse the City approximately $4,500.

Upon inquiry of Councilman Peterson, Mr. Rukavina said that 4 or 5 more fire stations will need to have the systems installed.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2003. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2003 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 167

E. BUDGET ORDINANCE NO. 2004 - BUDGET AMENDMENT RELATIVE TO URBAN TRAIL STATIONS

City Manager Bean said that this budget amendment in the amount of $18,000 is to budget for revenues received from sale of Downtown Urban Trail sites by Downtown Commission and to appropriate funds to pay for expenditures related to the Urban Trail Stations. He said that the goal is to have donors pay for all of the urban trails.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2004. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2004 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 169

G. BUDGET ORDINANCE NO. 2005 - BUDGET AMENDMENT TO SET UP HOME INVESTMENT TRUST FUND BUDGET

City Manager Bean said that this budget in the amount of $843,686 is to set up the HOME Investment Trust budget. He said the City has recently received notification of approval of $767,837 from the State of North Carolina through the HOME Investment Partnership Program for the Asheville Regional Housing Consortium. The City of Asheville, as Lead Entity of the Consortium, will administer the program through the Community Development Division. The allocation of these funds were approved by City Council on August 25, 1992, in Resolution No. 92-115.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2005. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2005 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 171

V. CONSENT:

A. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO PARTIALLY REZONE 570-582 HENDERSONVILLE ROAD (ONE LOT) FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

B. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO PROPERTIES ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT.

C. MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO A VARIANCE ON KENNETH HAIR APARTMENTS GROUP DEVELOPMENT.

D. **MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, RELATIVE TO A VARIANCE OF THE SUBDIVISION REGULATIONS FOR HEATH RIDGE ACRES TO PERMIT THE CONSTRUCTION OF A PUBLIC, BUT PRIVATELY MAINTAINED ROAD.**

E. **MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO AMEND THE GROUP DEVELOPMENT PROCEDURES SECTION OF THE ASHEVILLE ZONING ORDINANCE.**

F. **MOTION TO SET PUBLIC HEARING ON JANUARY 5, 1993, TO AMEND RESOLUTION NO. 92-132, A RESOLUTION TO CHANGE NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE**

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GRANTEE PERFORMANCE REPORT

Vice-Mayor Ellison stated that he was pleased that the Grantee Performance Report indicated that Asheville was carrying out it's Community Development Block Grant program in a timely manner.

B. CLAIMS

City Manager Bean said that the following claims have been received by the City during the week of December 7-10, 1992: Dione Reese (Police), Joanne Baker (Parks), David Fletcher (Water), Roy Roberts (Water), Kathleen Lasher (Water), Mary Russell (Water), Dean Alspangtt (Water), Jack McIntyre (Police), and Albert Booker (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:50 p.m.

William J. Morrell Jr. — CITY CLERK

I.H. Michalove — MAYOR

Tuesday - December 22, 1992 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the December 22, 1992, City Council minutes as submitted.

I. PROCLAMATION:

A. RESOLUTION NO. 92-190 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HENRY FREDRICK MOELLER IV

Mayor Michalove read the resolution stating that Fred Moeller has been with the City for 19 years and has requested retirement from his position as Systems Analyst Sr. in the Information Services Division of the Finance Department. He expressed the City Council's appreciation to Fred for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-190 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 9

B. RESOLUTION NO. 92-191 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE BOBBIE G. LOVIN

Mayor Michalove read the resolution stating that Bobby Lovin has been with the City for 19 years and has requested retirement from his position as Captain in the Fire Department. He expressed the City Council's appreciation to Bobbie for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 92-191 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 10

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO A VARIANCE FOR A REDUCTION IN THE CUL-DE-SAC RIGHT-OF-WAY IN FOREST LAKE SUBDIVISION AND APPROVAL OF THE PRELIMINARY PLAT.**

Mayor Michalove opened the public hearing at 4:14 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 4, 1992, reviewed and voted to reaffirm their approval of the preliminary plat for Forest Lake Subdivision with one contingency - approval by City Council of a variance to permit a right-of-way radius of 45 ft. at the end of the cul-de-sac streets.

He said the preliminary plat for the 135 lot subdivision was originally approved by the Planning and Zoning Commission on February 14, 1990, with contingencies that variances regarding road construction be granted by City Council. These variances were granted by City Council on March 16, 1990.

He said that construction of the subdivision has proceeded in phases, with final plats for four phases having been accepted by City Council. Preliminary plat approval is valid for one year only and the original approval was reaffirmed by the Planning and Zoning Commission and the City Council in October, 1991. The developers are again seeking reaffirmation in order to maintain the approval of the project.

Mayor Michalove closed the public hearing at 4:15 p.m.

Councilman Worley moved to grant the variance to permit a right-of-way radius of 45 feet at the end of the cul-de-sac streets in Forest Lake Subdivision and also to approve the preliminary plat. This motion was seconded by Councilman Moore and carried unanimously.

B. **PUBLIC HEARING RELATIVE TO AN ORDINANCE AMENDMENT TO THE MEMBERSHIP AND POWERS OF THE BOARD OF ADJUSTMENT**

ORDINANCE NO. 2006 - ORDINANCE AMENDING SECTION 30-8-2 OF THE CODE OF ORDINANCES REGARDING MEMBERSHIP AND POWERS OF THE BOARD OF ADJUSTMENT

Mayor Michalove opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mrs. Julia Cogburn, Planning Director, explained that this amendment will allow the members of the Board of Adjustment who are appointed by the Board of County Commissioners to have equal rights, privileges and duties with the other members of the Board of Adjustment, regardless of whether the issues arise within the City or within the extraterritorial zoning jurisdiction.

Upon inquiry of Councilwoman Field on how the County could appoint members who are not residents of the extra-territorial area, City Attorney Slawter explained that law reads as follows: ". . . (p)rovided, however, if there is an insufficient number of qualified residents of the extraterritorial area who meet the number of members who are to be appointed by the Board of County Commissioners, the Board of County Commissioners may appoint as many other residents of the County as necessary to make up the requisite number."

Councilman Moore felt strongly that only City residents should be allowed to vote on City issues and that the County's extraterritorial members should be only allowed to vote on extraterritorial matters.

There was discussion which resulted in the realization that the majority of the Board membership is made up of City residents.

Councilman Worley spoke in favor of the ordinance, as proposed, stating that if City appointments voted for City matters and County appointments voted for extraterritorial matters, there would be a different board for each area.

Councilman Swicegood felt that County appointees might own property or a business in the City and should be allowed to vote on City matters.

Councilman Peterson felt that this ordinance, as proposed, is needed in order to let the Board run smoothly.

Upon inquiry of Councilwoman Field on what recourse the City would have if the County appointed members outside the extraterritorial area, City Attorney Slawter said that the only recourse the City would have would be to contact the Board of Commissioners and suggest possible appointments

inside the extraterritorial area. He stated that the law gives the County Commissioners the judgment call to determine whether there is an insufficient number of qualified residents of the extraterritorial area - and if not, they may appoint other members outside the extraterritorial area.

Mayor Michalove closed the public hearing at 4:29 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2006. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-1, Ordinance No. 2006 passed on its first reading, with Councilman Moore voting "no".

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2006. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Moore voting "no".

On a roll call vote of 6-1, Ordinance No. 2006 passed on its second reading, with Councilman Moore voting "no".

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2006. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-1, Ordinance No. 2006 passed on its third and final reading, with Councilman Moore voting "no".

ORDINANCE BOOK NO. 13 AT PAGE 172

C. PUBLIC HEARING RELATIVE TO AN ORDINANCE AMENDMENT PROVIDING FOR THE CONSTITUENCY OF THE PLANNING AND ZONING COMMISSION

ORDINANCE NO. 2007 - ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE BY SETTING FORTH A NEW ARTICLE XVI TO PROVIDE FOR THE CONSTITUENCY OF THE PLANNING AND ZONING COMMISSION

Mayor Michalove opened the public hearing at 4:32 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mrs. Julia Cogburn, Planning Director, explained that this amendment will provide for technical changes to comply with State law and will also expand the term of appointment of the Planning and Zoning Commission members from two to three years.

There was some discussion about three members constituting a majority vote on the Planning and Zoning Commission, thus having the possibility of County appointees having the majority vote on City issues.

Vice-Mayor Ellison stated that because all Planning and Zoning decisions have to be reviewed by the City Council, he felt comfortable with the possibility of County appointees having the majority vote on City issues.

Mayor Michalove closed the public hearing at 4:43 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2007. This motion was seconded by Councilman Swicegood.

On a roll call vote of 5-2, Ordinance No. 2007 passed on its first reading, with Councilwoman Field and Councilman Moore voting "no".

Councilman Peterson moved to suspend the rules and proceed to the second reading of Ordinance No. 2007. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Moore voting "no".

On a roll call vote of 5-2, Ordinance No. 2007 passed on its second reading, with Councilwoman Field and Councilman Moore voting "no".

Councilwoman Field asked that the third and final reading not be voted on at this meeting, in order to give her time to look at the ordinance closer.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. ANNUAL REPORT OF THE MINORITY BUSINESS PROGRAM

Dr. Charles Lawrence, Chairman of the Minority Business Commission, gave the annual report of the Minority Business Commission stating that 89 minority firms are currently certified of which 52 are ethnic and 37 are women owned. He said these constitute 32 construction, 21 procurement and 36 professional service firms.

B. FINAL PLAT APPROVAL FOR THE TACO BELL SUBDIVISION

Mr. Gerald Green, Senior Planner, said that the Asheville Planning and Zoning Commission on November 4, 1992, reviewed and recommended approval of the preliminary plat.

He said the proposed subdivision is located at 1897 Hendersonville Road. The site is on 11 acres and the subdivided portions are .54 and .42 acres on sloping terrain. The site is tri-zoned and includes Commercial Highway, Office Institutional, and Residential-2 Zoning Districts. Surrounding zones include these same districts. All utilities are available to the site.

He said the proposed development will be two restaurants along Hendersonville Road. Access will be off of Hendersonville Road. The developer has requested a variance for the width of the right-of-way that extends to the rear of the property, which was approved at the December 8, 1992, City Council meeting. The Planning and Zoning Commission, at their November 4, 1992, meeting voted to recommend approval of the preliminary plat.

Councilman Moore moved for the approval of the final plat for Taco Bell Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

C. RESOLUTION NO. 92-192 - RESOLUTION ADOPTING THE AMENDED CITY COUNCIL RULES OF PROCEDURE

City Manager Bean said that these rules were drafted using a format of a Suggested Rules of Procedure for a City Council published by the Institute of Government. He said the existing rules which the City Council has in place are very similar to the revised rules. The substantive changes are as follows:

Rule 11. The former rule simply provided for the Mayor to designate another Council member to preside if the Mayor is engaged in active debate on an issue. This rule specifies that the Vice-Mayor be called upon unless the Vice-Mayor is also in active debate.

Rule 20. The former rule did not include the proviso that a motion may not be renewed where prohibited by a specific provision of law such as in the instance of rezonings.

Rule 22. The existing rule does not provide for the order of voting during roll call votes. This rule establishes that to be in alphabetical order.

Rule 23. This rule incorporates into the Rules of Procedure a resolution adopted separately by the City Council in 1988 regulating signs in the Council Chamber.

Rule 34. This provision has been added to the Rules of Procedure for the purpose of complying with the Americans with Disabilities Act.

He said that in addition, the former City Council rule governing settlements in litigation and workers' compensation cases has been deleted from the Rules of Procedure, and the identical provisions will be presented to the City Council by separate resolution. He said although these provisions have been included with the Council Rules of Procedure for some time, they should more appropriately be set forth separately.

It was the consensus of the Council to put in the legislative package and item that would reduce the votes needed on ordinances from three to two.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 92-192. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 11

D. RESOLUTION NO. 92-193 - RESOLUTION REVISING THE POLICY GOVERNING CITY COUNCIL APPOINTMENTS

City Manager Bean said that the City Council Committee on Boards and Commissions have incorporated comments from the City Council into a revised policy. One important item that the Council needs to make a decision on is the requirement that an individual should or must live in the City (or own property in the City) to be considered for an appointment. He said the other important item is regarding the requirement for attendance of City Council members who are appointed to boards and commissions while omitting attendance provisions for City Council liaison members.

Councilman Moore moved that an individual must be a City resident or own property in the City to be considered for an appointment. This motion was seconded by Councilwoman Field.

Vice-Mayor Ellison made a substitute motion that an individual should be a City resident or own property in the City to be considered for an appointment. This motion was seconded by Councilman Worley and carried on a 5-2 vote with Councilman Moore and Councilwoman Field voting "no".

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 92-193. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 25

E. BUDGET ORDINANCE NO. 2008 - BUDGET AMENDMENT TO APPROPRIATE FEDERAL FUNDS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH THE FAIR HOUSING ASSISTANCE PROGRAM

City Manager Bean said that the City has received funding approval of $65,000 for the Fair Housing Assistance Program. The Program is administered by the Asheville-Buncombe Community Relations Council under contract with the City. This action will appropriate the grant funds into the City budget.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2008. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2008 passed on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 178

V. CONSENT AGENDA:

A. RESOLUTION NO. 92-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL FOR THE FAIR HOUSING ASSISTANCE PROGRAM.

Summary: The City has received funding approval of $65,000 for the Fair Housing Assistance Program. The Program is administered by the Asheville-Buncombe Community Relations Council under contract with the City. This will be the 6th year of funding under this program.

RESOLUTION BOOK NO. 20 - PAGE 29

B. RESOLUTION NO. 92-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION OFFICE OF BICYCLE AND PEDESTRIAN TRANSPORTATION IN SUPPORT OF A BICYCLE SAFETY AND BICYCLE HELMET CAMPAIGN

Summary: The Police Department is seeking funding to support a Bicycle Safety Program to be managed by the Community Relations Unit of the Department. Funding in the amount of $3,500 is requested through the grant. Program elements include fourth grade student lectures, meetings with parents, distribution of safety materials, a bicycle rodeo and procurement and distribution of helmets.

RESOLUTION BOOK NO. 20 - PAGE 30

C. RESOLUTION NO. 92-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENTS TO THE FIRE PROTECTION CONTRACT BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND FIRE DISTRICT

Summary: In 1988 the City of Asheville and Skyland Fire District entered into a contract in connection with annexation of part of the Skyland Fire District. This contract was renewed in connection with another annexation in 1991. The City and Skyland representatives have been working on amendments to this contract to update it and to provide for more flexibility in fire protection service delivery.

RESOLUTION BOOK NO. 20 - PAGE 32

D. **RESOLUTION NO. 92-197 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT WITH CORT ARCHITECTURAL GROUP, P.A., FOR RENOVATIONS AT THE CIVIC CENTER**

Summary: The space formerly occupied by the Asheville Art Museum in the Asheville Civic Center is now available for other uses. The employment of an architect is necessary to review the feasibility of renovations of the space formerly occupied by the Asheville Art Museum. Cort Architectural Group, P.A., has presented a proposal for a feasibility study, along with a contract for the feasibility study and for other services which might arise out of the feasibility study and result in the need for additional architectural services for renovations of the space.

RESOLUTION BOOK NO. 20 - PAGE 36

E. **RESOLUTION NO. 92-198 - RESOLUTION ADOPTING A MINIMUM FIRE INSPECTION SCHEDULE FOR THE CITY OF ASHEVILLE TO BE EFFECTIVE JANUARY 1, 1993**

Summary: Section 107 of Volume 5 of the State Building Code sets forth a minimum mandatory fire inspection schedule that applies throughout North Carolina. Section 107 also requires that local governments formally adopt a mandatory fire inspection schedule that "shall be approved by the local governing body."

RESOLUTION BOOK NO. 20 - PAGE 37

F. **RESOLUTION NO. 92-199 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL**

Summary: The terms of Bernadette Thompson and Edward Schell expire on December 31, 1992. Ms. Hazel Turner has also resigned from the Council. This resolution will reappoint Ms. Bernadette Thompson for an additional three year term, term expiring December 31, 1995; appoint Mr. Edward C. Hay to serve a three year term, term expiring December 31, 1995; and appoint Mrs. Charlotte Tell to serve the unexpired term of Hazel Turner, term to expire December 31, 1993. All appointments are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 39

G. RESOLUTION NO. 92-200 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The terms of Don Martell, Chairman; Barry Olen and Victor Trantham expire on December 31, 1992. This resolution will reappoint Don Martell for an additional two year term, term expiring December 31, 1994; reappoint Barry Olen for an additional two year term, term expiring December 31, 1994; reappoint Victor Trantham for an additional two year term, term expiring December 31, 1994; and will appoint Brady Blackburn as Chairman for the remainder of his term, term expiring December 31, 1993. All appointments are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 40

H. RESOLUTION NO. 92-201 - RESOLUTION REAPPOINTING MEMBERS TO THE ASHEVILLE TRANSIT AUTHORITY

Summary: The terms of Grace Dorn and Tom Tomlin will expire on December 31, 1992. This resolution will reappoint Grace Dorn to serve an additional four year term, term expiring December 31, 1996; and will reappoint Tom Tomlin to serve an additional four year term, term expiring December 31, 1996. Both appointments are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 41

I. RESOLUTION NO. 92-202 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Summary: The term of Webb E. Ellis will expire on January 1, 1993. This resolution will appoint M. Jerry Vehaun to serve a two year term, term expiring January 1, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 42

J. RESOLUTION NO. 92-203 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE FAIR HOUSING COMMISSION

Summary: The terms of Edward Schell, Edward Hay and Joyce Harrison expire on December 31, 1992. This resolution will appoint Jim Drummond to serve a three year term, term expiring December 31, 1995; will appoint Jim Barrett to serve a three year term, term expiring December 31, 1995;

and will reappoint Joyce Harrison to serve an additional three year term, term expiring December 31, 1995. All appointments are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 43

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean stated that the following claims have been received by the City during the week of December 14 - 18, 1992: Karen Fedder (Streets), Sylvia Clement (Streets), Mildred Burts (Water), Tripp Hughes (Streets), Kathleen Lasher (Water), and Rosebud McCoy (Public Works).

He said that these claims have been referred to the appropriate insurers for investigation.

B. COMMENT REGARDING BICYCLE SAFETY PROGRAM

Mr. Chris Johansen thanked the Council for their support of the bicycle safety and bicycle helmet campaign.

C. RALPH BISHOP

Mr. Ralph Bishop wished the members of Council merry Christmas.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:30 p.m.

William S. Malcolm, Jr.
CITY CLERK

H. M. Michalove
MAYOR

Monday - January 4, 1993 - 7:00 p.m.

Special Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison

PUBLIC HEARING REGARDING SPECULATIVE GRADING/GRADING IN THE BUFFER AREAS POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Michalove opened the public hearing at 7:01 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Don Noakley, resident of Buncombe County but who works mostly inside the City limits, spoke against adding provisions into the law about either speculative grading or grading in the buffer area. He read a prepared statement which is attached hereto and made a part hereof as Exhibit "A".

Ms. Ann Jones, resident of the City and speaking on behalf of Jim Oliver, read a prepared letter from Mr. Oliver, summarizing that speculative grading can cause the worst eyesores as well as erosion and runoff problems. Mr. Oliver wrote that if it is allowed at all, it must be regulated to insure that it will be done correctly and the regulations must be easily enforced.

Ms. Meg MacLeod, Coordinator of Citizens for Quality Development, spoke against speculative grading and recommended prohibiting buffer zone grading. She read a prepared statement which is attached hereto and made a part hereof as Exhibit "B". She also read a letter from Robert E. and E. Ann Lewis summarizing their opposition to speculative grading.

Ms. Millie Buchanan, representative of the Clean Water Fund of North Carolina, spoke against speculative grading as it relates to water quality. She read a prepared statement which is attached hereto and made a part hereof as Exhibit "C".

Mr. George Morosani, spoke in support of speculative grading and felt that the City should not tell land owners what they can and cannot do with their land.

Ms. Becky Anderson, spoke in support of speculative grading stating that it is helpful in recruiting businesses to the area if a site is already graded and ready for development to begin.

Mr. Robert Grasso, spoke in support of sensible speculative grading and sensible buffering. He felt economic development can work hand in hand only with sound planning.

Ms. Hazel Fobes, Co-Chair of Citizens for Safe Drinking Water, supported the statement of the Clean Water Fund. She felt that whenever the land is disturbed, water, somewhere is affected. She felt that permitting speculative grading is not consistent with Citizens for Safe Drinking Water's policy of maintaining high quality water sources.

A number of young adults from the Earthdance Institute spoke throughout the meeting, all of which spoke against speculative grading. In particular they spoke against the cutting of trees and destroying the mountains. Most felt that developers should use the already vacant buildings and land for development.

Mr. George Beverly, developer, spoke in support of responsible speculative grading. He felt that if Asheville was going to competitive, it needed to have site available for prospective buyers.

Mr. Leo Borregard, spoke in opposition of speculative grading. He felt that it creates not only visual pollution but creates damage to the environment.

Mr. Frank Martin, 65 Dillingham Road, spoke in support of a one stop service relative to the permitting process. He felt that when investors ask for a permit, they should know that their investment is secure.

Mr. Albert Sneed, President of Council of Independent Business Owners, felt that there should be different rules regarding speculative grading for commercial, industrial and residential areas. He suggested the Council look at the buffer zone regulations and perhaps create an incentive for the property owners to leave the natural vegetation. He urged Council to reconsider the too low 25% grade.

Mr. John Cort, Cort Architectural Group, gave an example stating that without speculative grading, public projects, among others, will be very costly.

Ms. Leni Sitnick, 90 Gertrude Place, spoke in opposition of speculative grading and, if allowed, should be looked at on a case by case basis only.

Mr. Ken Jackson spoke in favor of speculative grading and felt that it would be a benefit in the recruitment of manufacturing plants to have adequate sites prepared in advance for them. He spoke in favor of 2 to 1 slopes.

Mr. Dwayne Conner, spoke in support of speculative grading if done with a clear conscience and in a noteworthy way. He also felt that the property owner should have the right to do what they wish with their own property.

The President of the Kenilworth Residents Association spoke against speculative grading and passed out pictures illustrating his point.

Ms. Nancy Mansell, 69 Woodward Avenue, strongly opposed speculative grading and asked the Council to consider the long term problems.

Mr. Bob Selby, spoke in support of speculative grading.

Mr. Rich Mathews, President of the Coalition of Asheville Neighborhoods, spoke against speculative grading and grading in buffer zones.

Mayor Michalove closed the public hearing at 8:24 p.m.

William F. Holcombe
CITY CLERK

H. Lee Michalove
MAYOR

Exhibit A

JANUARY 4, 1993

COMMENTS AND RECOMMENDATIONS ON SPECULATIVE GRADING AND GRADING IN THE BUFFER AREA

BY DON H. NOAKLEY

✔ Do we want economic development and growth with an expanding tax base in Asheville or do we want no growth and a declining economy with serious problems in our tax base? Every time we add new requirements we promote the latter.

✔ We need to remember that individual property rights are rights given to us by the US Constitution -- rights not privileges. Every new law needs to be weighed against these rights. Of course, everyone knows that in this civilized society we must have detailed laws to insure the health, safety, welfare, defense, and domestic tranquilly of our population; the US Constitution talks about these items in many different ways. Many of our laws in recent years do not concern any of the foregoing items; but, rather there is the tendency to attenuate individual property rights on the basis of esthetics. Nowhere do we find anything about esthetics in the US Constitution. Why was this thought process left out? The answer is simply; esthetics relies on the Eye of Beholder, is fickle, varies from individual to individual and group to group; and can be use to trample on individual rights without any basis in common law or the Federal and State Constitutions. The thrust behind the recent discussions on speculative grading and grading in the buffer area (along with other topics) has been twofold; the first is esthetics, people minding other peoples business, and the second is the attempt to stop growth and its companion, economic development in Asheville.

✔ Currently, there are several laws that deal with erosion control, grading, building on hillsides, building densities, and landscaping that regulate different aspects of grading, site development and environmental concerns. We already have issued a great number of restrictions on property owners and developers in the last ten years that have discouraged businesses, entrepreneurs, and builders from bringing new jobs and buildings to Asheville. Quite frankly, we are over regulated in some respects. The added burden of denying land owners their right to prepare their land for marketing or to prevent the use of all of his or her property, may be just the extra regulation that places Asheville into that undesirable category of a no growth, no opportunity town. Yes, apparently a few people are in favor of such a reputation; but, the vast majority are not and want to have a quality of life that retains a good paying job as part of that definition.

✔ The issues of speculative grading and grading in the buffer area have been raised by small, vocal groups in the last two years along with zero run off as poorly disguised efforts to stop building, growth and economic development in this City. Terms like these are buzz words that play upon emotions without any practical reason for their invention. These people have gotten such items on the UDO agenda despite the judgment of the experts on the matter, who understand the balance between land use planning with economic growth and uncontrolled growth. Such groups as the Council of Independent Business Owners, The Asheville Board of REALTORS®, The Asheville Commercial-Investment Realty Association, The Home Builders Association and the Asheville Chamber of Commerce

have all taken positions against these kinds of restrictive ordinances on many occasions in the past . Very few projects within our 42 square miles of space have involved grading for purely marketing purposes; but, owners need the right to grade their property for either future use or as a marketing tool. This is still a free Country (at least to some degree).

✔ Staff named some sites as speculative grading that were graded in the development of shopping centers or large free standing retail centers. In no way can these sites be labeled as speculative grading; the whole site needs to be graded at the time a project is built. The cost of grading and preparing out-parcels at later dates will increase cost, leave part of the site in an unattractive condition, create traffic problems, make marketing of out-parcels more difficult and leave landscaping unfinished. Staff mentioned a 2 acre site at Overlook Village as speculative grading; anyone understanding construction that saw this site prior to site work beginning knows that the 2 acres were required to be used for the displaced rock and soil from the main project. Folks this is the real world we live in, when you cut down a hill the size of that one you can not use all the rock and dirt on the planned building area even though and effort was make to use some of it.

✔ Woodberry Apartments does have a problem with a cut into the slope behind the apartments; this problem would be a problem with or without buffer area consideration. The problem was poor site planning not caught by the planning staff or the developer prior to construction. We can find many good examples of good engineering in buffer areas in this City. We must remember that one poorly executed project is not a valid reason to enact restrictive measures against everyone. A great example of good slope work accomplished on a very large slope is the area behind the new Wal-Mart on Tunnel Road.

✔ Land in Asheville is relatively expensive, developers do not have the luxury of not using all that they have purchased; with hilly sites the norm, it is necessary to cut into slopes and if such cuts go into buffer areas then engineering must provide for stabilization and vegetation or barriers to shield the view from dissimilar areas. The proposed slope limitation for cutting into hills (and we assume for filling as well) of 1 to 4 is just plain ludicrous. We have some street and driveway grades this steep. Slopes of 1 to 2 for dirt without retaining walls are widely accepted engineering practices and for rock it can be almost straight up and down.

RECOMMENDATIONS:

1. Do not add provisions into the law about either speculative grading or grading in the buffer area.
2. Add a requirement to the erosion control ordinance that states all areas graded, regardless of size, are to be seeded and grass grown within the next growing season (bare rock excepted). This is already covered to a degree in the current ordinances.
3. Establish slope stabilization measures for cuts and fills where cuts and fills are either in the buffer area or ones that could pose problems for adjacent property owners. Slopes should conform to accepted engineering practices and not some arbitrary ratio.
4. Add provisions to the buffer area requirements, for cases were the adjoining property needs additional protection, that would increase the height of plants or trees or in some cases require palisade type fencing.
5. The US Constitution, common sense and what is in the best interest of all the citizens should be the main basis for development of law.

II. Grading in the Buffer Zone

A. Background

Our ordinances require buffer zones to protect incompatible uses from visual and noise pollution.

- Cutting down lush, mature trees and bushes, and replanting with small saplings takes away the protection that the mature tree buffer had provided between, say, a mall and someone's home.
- Grading in the buffer zone can reduce commercial sales, lower property values, and thus can lower the City's tax base.[4]
- Maintaining forest and wetlands has been found to be more effective at stormwater control than clearing that land, and then adding erosion control devices like containment ponds.[5]

B. Recommendations

The *UDO Riverfront* and *Neighborhood Sub-Committees* recommended prohibiting buffer zone grading. CQD recommends:

1. Prohibit buffer zone grading, unless it is needed for utilities. In these cases, only utilities crossings would be permitted. These crossings would be approved by the city landscape architect (and/or urban forester, when one is hired).
2. In cases where a portion of a buffer needs to be graded for drainage, there would be a variance procedure which includes a public hearing.
3. Buffer zone width and content would vary with respect to the topography or grade of the adjacent properties. As the steepness of the slope increases, the width and content of the buffer also should increase from that which would have been acceptable in a flat or level piece of property.
4. Require a 50 foot buffer strip on both sides of all perennial streams and rivers.

Notes

1. From two sources: Alven Houn-Song Lam. *The Impact of Street Landscape Quality on Urban Land Value: A Case Study in Cambridge, Mass.* Ph.D. Thesis, Harvard University Graduate School of Design, May 1989; and also Charles R. Jordan, "The Urban Forest as Urban Amenity." Remarks at the Urban Forestry conference, Western Forestry Center, April 3, 1984. These studies found that landscaping, trees and other factors that contribute to "street quality" can account for 10-25% of the sale price of residential or commercial property, while retail businesses along tree-lined streets realize gross receipts 6% higher than other less aesthetically located businesses.
2. *Urban Stormwater Run-off Contamination of the Chesapeake Bay: Sources and Mitigation.* Natural Resources Defense Council. 1350 New York, N. W. Suite 300, Washington, DC, 20005. (202)783-7800. Chesapeake Bay area ordinances required strict erosion/stormwater controls such as containment ponds from 1985-1990. However, this 1990 study showed that, even with these controls, an increase in levels of phosphorus and nitrogen occurred. "Contamination of the Bay and its tributaries from (storm water) runoff is comparable to, if not greater than, contamination from industrial and sewage sources." The study projected that "Control of growth (higher density cluster zoning which reduces "sprawl"), greenways, natural buffers, and caps on impervious surfaces within watersheds, **instead of 'end of pipe' erosion control devices (ponds, etc.)**, is necessary in order to achieve the goals of run-off established for the Bay" for the year 2000.
3. The Neighborhood Open Space Coalition. "The Value of Parks and Open Spaces: A Monograph Series Overview." New York, N.Y. 1989. (Introduction and Part I) A Corps of Engineers study found that preserving the forested areas and wetlands of the Upper Charles River area in Massachusetts was one-third less expensive than any other type of flood control device. A similar study on Staten Island showed that preserving the island's wetlands would save the city $600 million that would need to be expended for stormwater control if development were to occur on those sites. By incorporating a natural drainage system into its community design, the new town of Woodlands, Texas saved $14 million over the cost of constructing a conventional stormwater system.
4. Ibid. See Note #1.
5. Ibid. See Note #3.

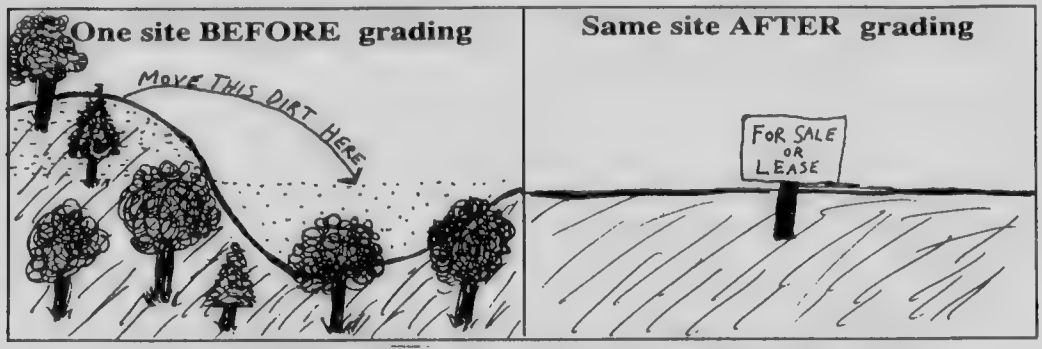
Exhibit "B"

Grading Recommendations from Citizens for Quality Development.

Respectfully submitted to City Council, 1/4/93, by Meg MacLeod, CoCoordinator of CQD, 254-6484.

I. Speculative Grading

Grading (clearing and leveling) a lot or part of a lot without a plan for construction



Removing the dirt from the hilltop and filling in the valley, without a development plan for this site, is an example of speculative grading. Sound land-use practices can alleviate the need for grading in inappropriate areas such as on mountain ridges.

A. Background

Some advantages of speculative grading are that it:

1. Enables the seller to provide a graded and prepped site for a buyer who may need it immediately and can't (or won't) wait for it to be graded.
2. Saves money for a developer if he doesn't have to haul dirt away from a site.
3. Saves money for a developer who can grade an entire site at once.

Some disadvantages are that it:

1. Damages surrounding residential property values, according to several studies.[1]
2. Makes the land less attractive to tourists, developers, or investors who may come here for the scenic beauty provided by our mountains and trees.
3. Damages the unique appeal of mountain terrain for the whole community if too much land is speculatively leveled.
4. Destroys the native vegetation and wildlife habitats.
5. Makes the land less attractive to a potential buyer who would have preferred to develop the site with existing trees.
6. Makes the land less attractive to passers-by and neighboring residents.
7. Encourages sprawling development which leads to inefficient infrastructure and urban core decay. We recommend policies which give priority to the use of empty buildings and already graded lots whenever those would be appropriate for a new development.
8. Finally, numerous studies conclude that grading increases storm water runoff in rivers and streams, harming water quality, even if erosion control measures are used.[2,3]

The jury is still out on this one:

Is it easier to visualize the potential of a lot by looking at the graded lot itself? Some people believe that a computer generated picture or a site plan is cheaper, easier to produce, and just as effective a selling tool as is speculatively grading the lot.

B. Recommendation: No Speculative Grading

The *UDO Riverfront Sub-Committees* and the *UDO Neighborhod Sub-Committee* both recommended to prohibit speculative grading. Because CQD believes the disadvantages of speculative grading far outweigh the advantages, Citizens for Quality Development recommends that speculative grading be prohibited in Asheville.

III. Recommendations for Grading

Asheville has problems with erosion control enforcement, as was brought out by the Planning Staff at the Education Session on Grading. Because of these concerns, and because of the problems caused by grading in general, as outlined on Page 1, we recommend that the following policies and procedures be implemented for all lots which are to be graded.

A. Erosion control

1. Require strict erosion control measures throughout every phase of the development of the property.
2. Require maintenance of a planted ground cover.
3. Regardless of the size of the property being graded, require an erosion control plan (including erosion which may occur before, during, and after the grading) to be approved by proper authorities and implemented prior to grading.

B. Tree protection

4. Write a tree ordinance to include fair and reasonable standards for tree and habitat protection and maintenance, and obtain any enabling legislation from the state that such an ordinance would need. The Tree Commission could work with the Planning staff to establish some of the guidelines for items such as grading in the setback, specimen tree protection, and renovation size thresholds for Item # 4.b., below.

   The tree ordinance should be adopted by January 1994, with standards for new commercial development and standards for new residential development. Enforcement would be phased in according to the following schedule:

   a. By June 1994: All new commercial and multi-family residential development.
   b. By June 1995: All commercial renovations over a certain size.
   c. By June 1996: All new subdivision developments.

5. Encourage preservation of "specimen" trees. (Specimen trees would be defined in the tree ordinance.)
6. Hire an Urban Forester whose duties would include enforcing the tree ordinance and assisting developers in complying with it.
7. Prohibit clearing of landscape strips or buffers, except as outlined under section on Buffer Zone Grading.

C. Insuring Compliance

8. Require developers to have a performance guarantee, such as a performance bond, to ensure compliance with the erosion control regulations, the tree ordinance, and any other applicable ordinances.
9. Require that out-of-town developers (those outside the Asheville area) provide a project contact person. This person would also be responsible for the performance guarantee.
10. Incorporate a "stop-work order" for all development activity if there are violations of any site specific plans such as those for erosion control or tree protection, and suspend all other permits for that development project until such time as the violations are corrected.

Tools

In order to avoid undue hardships on developers, we recommend structured flexibility in ordinances and administrative guidelines to enable both environmentally and economically sound development, such as flexibility in setback and density requirements.

We also recommend exploring the possibility of purchasing computer imaging equipment to be jointly shared by the City and County. Time on this equipment could be rented out to developers and other interested citizens.

Exhibit "C"

Clean Water Fund of North Carolina

112 North Person Street • Raleigh, NC 27601 • 919 832-7491
29 1/2 Page Avenue • Asheville, NC 28801 • 704 251-0518

Clean Water Fund of North Carolina
Testimony on Speculative Grading and Grading in the Buffer Zone

Millie Buchanan
Asheville UDO Hearings
January 4, 1993

The Clean Water Fund of North Carolina is a statewide, not-for-profit organization that works with citizens and communities to solve existing water quality problems and to prevent future problems.

We have worked with thousands of people in dozens of communities across the state to help clean up contamination that has resulted from lack of foresight, lack of information, bad policy, poor planning, and pure bad luck. The saddest words we hear -- from government officials, industry representatives, farmers, developers, and from individuals with contaminated water, are "if only."

-- *If only* we'd protected that pristine trout stream before it was too late.

-- *If only* we'd thought about what would happen after underground storage tanks full of gasoline began to rust and leak.

-- *If only* someone had taken the responsibility to mandate protection for our water before it became polluted.

-- *If only* I could take back what I did, or what my neighbor did, to my stream, my well, my land.

I am here tonight to encourage the Asheville City Council to ban speculative grading and grading in the buffer zones within Asheville.

I am here because I hope Asheville, during this process of updating and simplifying its development requirements, will have the foresight to avoid some *if only*'s. There are a variety of reasons why unnecessary grading is a bad idea. The ones I want to address are related to water quality.

Printed on 100% post-consumer recycled unbleached paper with soy ink.

What does grading have to do with water quality?

Any human activity on the land has the potential to pollute our water. The more land is disturbed, the more non-point source pollution (otherwise known as runoff) goes into our streams. When land is graded, unless extraordinary precautions are taken, sediment runs off onto adjacent property, into streets and storm sewers, and on into the nearest stream. Sediment from construction can range from 1,000 to 100,000 tons per square mile per year. Much of that is the result of initial grading that destroys the roots that anchor the soil. Grading is necessary for some types of development, but different land uses require different degrees of grading. The less unnecessary grading -- speculative grading -- we do, the less we pollute our streams.

When grading is necessary, leaving a buffer zone undisturbed is the most cost-effective way to reduce soil erosion and water pollution. Buffer zones protect both neighbors and adjacent streams, more cheaply and more effectively than engineered barriers.

What is the evidence that runoff is a problem?

The NC Division of Environmental Management is the state agency primarily responsible for protecting surface water quality. DEM says sediment is the most prevalent pollutant in the state.

In the French Broad River basin, DEM says more than half of our streams are either threatened by pollution, or polluted, and that sediment is the major cause.

More specifically, in Buncombe County, testing by the VWIN network of volunteers established several years ago by a coalition of private and governmental organizations tells a similar story.

VWIN tests every month for 12 pollutants. Two of these, turbidity and total suspended solids, are indicators of how much material is sliding into the water. If the concentration of particles in the streams increases greatly after rainstorms, that's a sign that erosion upstream is sending soil and other materials into the water.

In 1990, VWIN monitoring found huge increases in total suspended solids after rainstorms. The worst rise in sediment was at a sampling site near Beaver Lake, below mushrooming construction in the Beaverdam area. At that site, the high reading was more than 72 times the median level. The next year, in 1991, the high reading had risen to more than 100 times the median. Results are not compiled yet for 1992. Over the years, Beaver Lake has been filling up with mud; VWIN results show that is still happening, and probably getting worse.

In 1991, VWIN monitoring found the county's streams met most North Carolina water quality standards. One exception was turbidity: about one third of Buncombe's streams exceeded turbidity standards for trout streams. That's another sign that sediment is polluting our water -- and threatening use of those streams that's important to our economy and to our quality of life.

What can Asheville do?

Asheville can limit unnecessary grading by banning speculative grading.

Asheville can reduce the impact of necessary land disturbance by prohibiting grading in the buffer zones and strictly enforcing soil erosion control laws.

Clean Water Fund-NC supports the recommendations of the Citizens for Quality Development on erosion control and enforcement. A performance bond to ensure compliance with erosion control ordinances, and stop-work orders resulting from any violations, are particularly effective measures.

You, Asheville's elected officials, have the responsibility to provide a framework for orderly development that protects land values and existing homes from unnecessary disruption as our city grows. A grading policy that recognizes the slope of our land, the fragility of our streams, and the law of gravity as it applies to loose soil, is part of that framework.

If only you'll provide us with this good start, we can grow together in a way that will provide jobs, a good environment, and a community we can all be proud of.

Thank you.

Tuesday - January 5, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Worley gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the December 22, 1992, City Council minutes as submitted.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING PIN NO. 9740-18-32-8255 FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

B. PUBLIC HEARING RELATIVE TO PARTIAL REZONINGS OF 21 AND 29 LAKESHORE DRIVE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove stated that since these two items were related, the public hearings would be held simultaneously.

Mayor Michalove opened the public hearings at 4:04 p.m.

City Clerk Wolcott presented the notices to the public setting the time and date of the public hearings.

Mayor Michalove read the following letter from Mary Elizabeth Arrowood relative to Lakeshore rezoning dated January 5, 1993, which the City Clerk's Office received at 2:10 p.m. by facsimile transmission: "The purpose of this letter is to request a continuance of the public hearing scheduled for January 5, 1993 at 4:00 p.m. regarding the rezoning of 21 and 29 Lakeshore Drive, due to the fact that I am ill with the flu and unable to attend and represent my clients, Hugh Reed and Betty Vaughn. I would request that

this matter be rescheduled for February 2, 1993." Mayor Michalove said that, pursuant to his instructions, City Attorney Slawter telephoned Ms. Arrowood's Office and advised her that due to the large number of people notified of the meeting and their preparation to comment on this item, the City Council would open the public hearing, hear all comments from interested persons and continue the public hearing until February 2, 1993.

Ms. Carol Alberice, Urban Planner II, said that regarding the rezoning of PIN No. 9740-18-32-8255, the Planning and Zoning Commission, after a public hearing on the above request, tabled the agenda item at their October 8, 1992, meeting. On November 4, the rezoning request was again heard in a public hearing.

She said the lot is currently grandfathered non-conforming having been used as commercial parking at Grace Plaza Shopping Center before the current zoning ordinance was adopted. The lot is landlocked and can only be accessed through the shopping center parking lot.

She said the Commission unanimously approved the rezoning of PIN # 9740-18-32-8255 in its entirety from R-3 Residential District to CH Commercial Highway District.

Ms. Alberice stated that regarding the partial rezonings of 21 and 29 Lakeshore Drive, the Planning and Zoning Commission, after a public hearing on the above request, tabled the agenda item at their October 8, 1992, meeting. On November 4, the rezoning request was again heard in a public hearing and the Commission unanimously denied the partial rezonings of PIN # 9740-18-42-0104 and 9740-18-32-9126 (21 Lakeshore Drive and 29 Lakeshore Drive) from R-3 Residential District to CH Commercial Highway District.

She said that there have been at least 60 comments in opposition of the partial rezonings and a valid protest petition has been received containing over 700 names.

Upon inquiry of Mayor Michalove as to the reason why these rezonings are being requested, Mr. Gerald Green, Senior Planner, said that Harris Teeter (a grocery store) plans on leasing the space and would like to expand the present store. He did state that following the Planning and Zoning Commission's denial of the partial rezonings, Harris Teeter representatives said that they did have an alternative plan and they would be able to use the property as it is currently zoned.

At the request of Mayor Michalove, City Attorney Slawter said that if the commercial parking lot at Grace Plaza Shopping Center were rezoned to CH Commercial Highway, anything else that is allowed in that zoning district could be put in (although Harris Teeter plans to continue to use it as a parking lot). At this time, Ms. Alberice read all the uses which are permitted in a CH Commercial Highway District.

Mr. Kip Marshall, 12 Mt. Vernon Circle, said that he would reserve his right to speak until February 2, 1993, but wanted to stress that there is no need to rezone at all due to the fact that Harris Teeter said they would use the property as it is currently zoned.

Mr. David Matney, attorney representing Mrs. Branton and Mrs. Woody, spoke in opposition of the partial rezonings. He said if the if the Harris Teeter store plans to expand according to some plans he has seen, their building will be 5 feet from Mrs. Woody's property line. He felt it was very inappropriate to build a commercial building so close to a residential home. He feels that the commercial building should not be allowed to move into a residential neighborhood.

When Councilman Worley questioned about buffering, Ms. Alberice stated that since the development is over one acre, 20 feet of buffer on the commercial piece of property would be required.

Mr. W. West, 55 Mt. Vernon Place, spoke against the rezonings stating that he was against spot zoning. He felt there was no reason to rezone since Harris Teeter could use the property as is currently zoned.

Mr. Dan Schmidt, 55 Shorewood Drive, spoke against the rezonings and stated that he could not understand why Harris Teeter would want the parking lot rezoned (since it is already a grandfathered non-conforming use) unless he had some other use for the property in mind.

Ms. Leni Sitnick, 90 Gertrude Place, spoke against the rezonings and felt that the parking lot is already underutilized. She felt that the partial rezonings would be a neighborhood encroachment.

Mr. Doug Watson also spoke in opposition to the rezonings. He too feared what other type of development could occur if the areas were zoned CH Commercial Highway.

Ms. Sabrina Williams, 545 Lakeshore Drive, spoke against the rezonings and felt it would adversely affect the residential neighborhood.

Mr. Gordon Grant, 27 Mt. Vernon Circle, spoke against the rezonings and hoped the neighborhood could remain as is.

Ms. Gladys Lane, 56 Mt. Vernon Circle, spoke in total opposition of the rezonings.

Vice-Mayor Ellison moved to continue these public hearings until 4:00 p.m. Tuesday, February 2, 1993, in the Council Chamber of the City Hall Building without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

C. PUBLIC HEARING TO AMEND ZONING OF 570-582 HENDERSONVILLE ROAD

Mayor Michalove opened the public hearing at 5:00 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice said that 75% of the lot is currently zoned and developed commercially (CH) with one story retail shopping center and the remaining 25% is zoned residential (R-3) and vacant. Due to the widening of Hendersonville Road, there is now a lack of parking.

She said the terrain slopes steep to the east - Reed Street. Site access is both from Hendersonville Road and Reed Street. Reed Street is a narrow two-lane residential street now affected by closing of several adjacent intersecting streets (Fairview, Center Streets).

This request is to remove split zoning and allow the entire lot to be zoned CH Commercial Highway. The public comment received included 13 in opposition and 3 persons in favor. The Planning and Zoning Commission voted unanimously to rezone from R-3 Residential District to CH Commercial Highway District with no discussion.

City Attorney Slawter said that due to an error in the advertisement of the notice to the public, readvertisement will need to take place prior to any final action taken by the Council. He did state, however, that public comments could be taken.

Upon inquiry of Councilman Worley, Ms. Alberice said that if this portion is not rezoned, they would not have sufficient parking to comply with our ordinances, but they would be grandfathered.

Vice-Mayor Ellison felt that a broad plan needed to be looked at for the entire area before any more rezonings were approved. Ms. Alberice said that the Hendersonville Road Corridor Study is close to completion but not final yet.

Planning and Zoning Commission member Harriett Winner said that one reason her Commission approved the rezoning was that there was no other likely use for that property.

Mr. Cecil Jackson, 709 Brookshire Street, stated that their only opposition to the rezoning is the rezoning of Lot 10. He said that Reed Street cannot accept any more traffic. He voice concerns regarding safety and urged the Council not to rezone in this residential area. He felt that this rezoning would constitute spot zoning.

Mr. Greg Gregory, 1092 Hendersonville Road, urged the Council to wait until the Hendersonville Road Corridor Study was completed before considering this rezoning. He spoke against the rezoning.

Ms. Julia Cogburn, Planning Director, stated that the Hendersonville Road Corridor Study would be going to the Planning and Zoning Commission in February. After their review, it will come before the City Council. She announced that the next meeting of that Study report will be held on Monday, January 25, 1993, at 7:00 p.m. in the Biltmore Baptist Church for any interested persons to attend. She also stated that a draft of the Study will be available next week in the Planning Department for review.

Mr. Rodney Leftwich, 720 Reed Street, felt that there was adequate parking. He spoke against the proposed rezoning and stated problems with trash, vandalism and flooding. He felt the Council should study this rezoning further before any action was taken.

Ms. Alene Shroat, 40 Fairview Street, spoke against the rezoning because she felt it was an intrusion into the neighborhood. She was very much concerned about the future development in the area.

Councilman Worley moved to continue the public hearing until 4:00 p.m. on Tuesday, March 30, 1993, in the Council Chamber of the City Hall Building, in order to give the Council the benefit of the Corridor Study. This motion was seconded by Councilman Moore and carried unanimously.

D. PUBLIC HEARING TO REZONE PROPERTIES ON CROWELL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

ORDINANCE NO. 2009 - ORDINANCE AMENDING ZONING OF EIGHT PARCELS ON CROWELL ROAD

Mayor Michalove opened the public hearing at 5:40 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Alberice said the Planning and Zoning Commission enlarged an original rezoning request to consider the rezoning from R-3 Residential District to CS Commercial Service District of 8 properties on Crowell Road. In November the City Council rezoned a large part of the eastern side of Crowell Road to CS Commercial Service.

She said the request is in accordance with the 2010 Asheville City Plan and the Planning and Zoning Commission approved the rezoning request unanimously. She said that opposition has been received from the north and east property owners not to expand the Commercial Service district.

Mr. W. V. Henry, 98 Starnes Cove Road, spoke in opposition of this rezoning request. He felt that this rezoning will change the whole character of the area.

Upon inquiry of Vice-Mayor Ellison, Mr. Henry was not aware of any neighbors being involved in the 2010 Plan process.

In response to Vice-Mayor Ellison relative to any buffering between the commercial service district and the residential district, Ms. Alberice said that buffering would depend on how that property is developed.

Mayor Michalove closed the public hearing at 5:55 p.m.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2009. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2009 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2009. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2009 passed on its second reading.

At this time (6:00 p.m.), the Council took a 5 minute recess.

E. PUBLIC HEARING RELATIVE TO A VARIANCE IN THE KENNETH HAIR APARTMENTS SUBDIVISION

Mayor Michalove opened the public hearing at 6:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that the .38 acre site is current vacant and slightly sloping to the south. The lot is zoned R-3 residential and is bounded on the north and east by multi-family residences, on the south by multi- and single-family residences, and on the west by single-family residences.

He said that in April of 1989, Kenneth Hair obtained group development approval from City Council to construct a 4-unit apartment building on a .38 acre site on Edgewood Road. Since construction of the project did not start within one year of the date of approval, the approval status of the group development was automatically revoked. Upon requesting re-approval of the site plan in October of 1992, it was observed that the lot in question, which was created by the subdivision of a larger parcel in 1988, does not comply with the Asheville Subdivision Regulations. Section 26-37 of the Subdivision Regulations states that all lots of a subdivision must abut a public street. The .38 acre parcel does not abut a public street and, as such violates the Subdivision Regulations. It should be noted that at the time this property was subdivided, the Register of Deeds' Office did not always notify the property owner that the subdivision must comply with the Subdivision Regulations and be approved by the Planning Department.

It was determined that before the group development could be reviewed for re-approval, a variance from the Subdivision Regulations would have to be obtained. Therefore, Mr. Hair is requesting a variance to permit the creation of a lot which does not abut a public street.

Access to the property is provided by a 16-foot easement to Edgewood Road. A 16-foot driveway currently exists within this easement and serves the two adjacent multi-family dwellings. The zoning ordinance requires that such driveways be 20 feet wide. However, the group development was originally approved with a 16-foot wide easement.

Approximately 12 property owners in the neighborhood have voiced their opposition to the proposed project for the following reasons:

1. Increased traffic in neighborhood;
2. Increased noise levels; and
3. Driveway entrance is unsafe as it exists today

   - insufficient visibility
   - steep grade of driveway
   - too many cars using driveway

At their December 2, 1992, meeting, the Planning and Zoning Commission voted to deny the preliminary plat and to recommend denial of the variance request for the following reasons:

1. The lot does not comply with the Subdivision Regulations in that it does not abut a public street.

2. The proposed access to the lot does not comply with the requirements of the zoning ordinance.

Councilman Swicegood was concerned about Mr. Hair's relying on City Council's prior approval and now having to ask for a variance and facing possible disapproval.

Mr. Hair spoke in support of the requested variance. Among other things, he said he has already lost approximately $10,000 in this project, he felt traffic would not be a problem if people didn't park on the street, and the Fire Department could properly serve the piece of property. He said he did not go ahead with the project back in 1989 was because of the economy.

At the suggestion of Vice-Mayor Ellison, the minutes of the April 11, 1989, minutes were obtained. It was determined that because this item came under group development review back in 1989, the Planning and Zoning Commission recommended approval, and there was no opposition (according to the records) at that time, City Council approved the group development without taking any action.

Upon inquiry of Councilman Moore, it was determined that a 20 foot easement providing access to the property could not be obtained because there was only 16 feet from building to building.

When questioned by Councilman Worley if under the Subdivision Regulations there is a provision for a flag lot, Mr. Gerald Green said there was not.

Mr. Stephen Smith, 192 Edgewood Road, spoke in opposition to the variance request. He mentioned concerns of safety, parking congestion, and traffic.

Mr. James Earwood, 187 Edgewood Road, said that in 1989 he in fact telephoned the Planning Department to voice his objection to the group development.

Mayor Michalove closed the public hearing at 6:44 p.m.

Councilman Moore moved to reject the variance request for Kenneth Hair Apartments Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

F. PUBLIC HEARING RELATIVE TO A VARIANCE OF THE SUBDIVISION REGULATIONS FOR HEATH RIDGE ACRES TO PERMIT THE CONSTRUCTION OF A PUBLIC, BUT PRIVATELY MAINTAINED ROAD

Mayor Michalove opened the public hearing at 6:47 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson said that Ed Randall, owner/ developer of Heath Ridge Acres Subdivision, is requesting a variance from Section 26-37(1) of the City of Asheville Subdivision Regulations. The variance would permit the construction of a public, but privately maintained street serving the lots in the subdivision. Due to the following circumstances, Mr. Randall is unable to construct the street to state standards as required by the Subdivision Regulations.

Heath Ridge Acres was originally approved as a four lot subdivision in July, 1991. At that time, the Planning and Zoning Commission recommended and City Council granted a variance to permit the construction of a private street to serve the subdivision lots. The approval of this variance request was based in part on the fact that the street would

serve only four lots. The proposed street was to be a gravel road with a 30 foot right-of-way. Upon approval of the subdivision last year, the road was partially constructed and four homes have been constructed.

In July, 1992, the Planning and Zoning Commission heard the request of Mr. Randall to re-subdivide the property into eight lots. The Commission voted to approve the preliminary plat upon the condition that the road be constructed as a public road to State standards.

Also, in July, 1992, a maintenance agreement was prepared to ensure the proper maintenance of the road. In short, the agreement states that the residents of the subdivision are responsible for the continued maintenance of the road.

At the August 5, 1992 Planning and Zoning Commission meeting, Mr. Randall requested a variance to construct the road as a private street. The Commission unanimously denied the request for the variance. This decision was premised largely on two considerations. First, the approval of the original variance was based partially on the fact that the street would serve only four lots. Since four lots were added to the subdivision, the Commission felt the residents would be better served by a public street constructed to State standards. Second, the Commission felt that if the variance were granted, the future residents of the subdivision could and would petition NCDOT to assume maintenance of the road by taking it into the public domain. Thus, the road would eventually be constructed to State standards at the public's expense, rather than at the petitioner's expense.

Department of Transportation standards for subdivision streets require a minimum right-of-way of forty feet. This would be difficult in Heath Ridge Acres, since the existing homes were sited based on the previously approved thirty foot right-of-way. Danny Tolar of the NCDOT stated that ten feet of right-of-way would have to be added to the width of the street in order to meet the minimum standards. However, the mortgagee of the lots adjacent to the street, Nations Bank, is unwilling to grant a 10' easement. As a result, the street cannot be built to NCDOT standards and NCDOT will not assume the future maintenance of the street.

In essence, the variance will permit the construction of a public, but privately maintained road constructed to City standards. Constructing the road to City standards

(which permits a 30 ft. wide right-of-way) will allow the street to be in a position for acceptance into the City maintenance system if the area is annexed into the City at some future time.

At their December 2, 1992, meeting, the Planning and Zoning Commission voted to recommend approval of the variance with one condition. The condition is that the developer must arrange for an engineering firm to monitor the construction of the street to ensure it meets City standards.

Section 26-13 of the Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and the City Council to grant variances to the requirements of the regulations. According to Section 26-13, a variance may be granted when the developer can show that the provision of the regulations "would cause unnecessary hardship if strictly adhered to and where, because of topographical or other conditions peculiar to the site, in the opinion of the Planning Commission a departure may be made without destroying the intent" of the provision.

The condition peculiar to the site and the impetus for this variance request is that the street right-of-way width is limited to 30'. It should be noted that the granting of the initial variance request in July, 1991 created the opportunity for this condition to arise.

Mayor Michalove closed the public hearing at 6:55 p.m.

Vice-Mayor Ellison moved to grant the variance of the Subdivision Regulations for Heath Ridge Acres to permit the construction of a public, but privately maintained road. This motion was seconded by Councilwoman Field and carried unanimously.

G. PUBLIC HEARING RELATIVE TO AMENDING THE GROUP DEVELOPMENT PROCEDURES SECTION OF THE ASHEVILLE ZONING ORDINANCE

ORDINANCE NO. 2010 - ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ASHEVILLE (ARTICLE 6 - GROUP DEVELOPMENTS)

Mayor Michalove opened the public hearing at 6:56 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green said that as part of its land development regulations revision process, the City Council held hearings on the group development review procedures. The purpose of these hearings was to obtain input on ways to improve the group development review process. As a result of the public hearings, City Council recommended that the group development ordinance be revised to increase the thresholds for determining which projects shall be reviewed as group developments.

He said in response to this recommendation from City Council, the Asheville Planning and Zoning Commission is recommending approval of the attached ordinance amendment. The major revisions proposed by the ordinance amendment are:

Threshold for determining group development projects changed from a building or structure with a gross floor area of 25,000 square feet or more to a building or structure or a combination of buildings or structures meeting the following size standards:

a. Industrial building(s) or structure(s) with a gross floor area of one hundred thousand (100,000) square feet or more;

b. Commercial building(s) or structure(s) with a gross floor area of thirty-five thousand (35,000) square feet or more;

c. Office or institutional building(s) or structure(s) with a gross floor area of twenty-five thousand (25,000) square feet or more or which is three (3) stories or more in height.

The threshold for residential projects changed from a project containing three (3) or more individual units to a project containing eight (8) or more individual units.

He said there were no comments from the public at the public hearing held by the Planning and Zoning Commission and the Commission voted unanimously to recommend adoption of the ordinance amendment.

Mr. Rich Mathews, representing the Coalition of Asheville Neighborhoods, disagreed with the recommendations and felt the ordinance revisions would do a disservice to the neighborhoods.

Mayor Michalove closed the public hearing at 7:07 p.m.

Mayor Michalove said members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2010. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2010 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2010. This motion was seconded by Councilman Swicegood and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2010 passed on its second reading.

H. PUBLIC HEARING TO AMEND RESOLUTION NO. 92-132, A RESOLUTION TO CHANGE NAMES OF CERTAIN STREETS IN THE CITY OF ASHEVILLE

RESOLUTION NO. 93-1 - RESOLUTION CHANGING THE NAME OF FOREST LANE EAST TO FOREST LANE SOUTH

Mayor Michalove opened the public hearing at 7:08 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that on September 29, 1992, City Council adopted a resolution that changed the names of several Asheville streets, effective January 1, 1993. Among those changes was a change of "Forest Lane" to "Forest Lane East." Since that time, residents of Forest Lane have advised the City that their preference is "Forest Lane South," since Forest Lane is actually in the south Asheville area. This change would cause no emergency-response problems.

Mayor Michalove closed the public hearing at 7:09 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-1. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 44

I. PUBLIC HEARING TO CLOSE A PORTION OF KEEVER ROAD.

RESOLUTION NO. 93-2 - RESOLUTION TO CLOSE A PORTION OF KEEVER ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 7:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, said that all property owners along the portion of Keever Road north of Southern Railway right-of-way have petitioned this portion of Keever Road to be closed. This closing will allow the property owners to sell their property to developers for development of a warehouse type shopping complex.

Mayor Michalove closed the public hearing at 7:11 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-2. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 45

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2007 - ORDINANCE AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE BY SETTING FORTH A NEW ARTICLE XVI TO PROVIDE FOR THE CONSTITUENCY OF THE PLANNING AND ZONING COMMISSION

City Manager Bean explained that this amendment will provide for technical changes to comply with State law and will also expand the term of appointment of the Planning and Zoning Commission members from two to three years.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-1, with Councilman Moore voting "no", Ordinance No. 2007 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 175

IV. NEW BUSINESS:

A. ORDINANCE NO. 2011 - ORDINANCE REPEALING ORDINANCE NO. 1008

City Attorney Slawter said that the City Council adopted Ordinance No. 1008 on December 2, 1977, establishing procedures for use of a consent agenda. He said the City Council adopted Resolution No. 92-192 on December 18, 1992, establishing a new set of Rules of Procedure for the City Council, which includes a provision for use of a consent agenda.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2011. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2011 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2011. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2011 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2011. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2011 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 187

B. BIDS RELATIVE TO ONE FIRE TRUCK WITH 75 FOOT AERIAL AND ONE FIRE PUMPER WITH A 50 FOOT AERIAL FOR THE ASHEVILLE FIRE DEPARTMENT

City Manager Bean explained that due to an error in the City's specifications, the 75 foot aerial bid had to be re-bid with revised specifications. Eight bids were received

when re-bid with a recommendation for award to Slagle Fire Equipment/KME, Cayce, South Carolina, in the amount of $323,261 for the purchase of one 1993 'KME' Renegade MFD cab and chassis with a 'KME' 177" streamline aerial body and 'KME' 75' firestix aerial. Funds are available in the Capital Improvement Program. The bid summary is attached hereto as Exhibit "A".

He said seven bids were received for the 50 foot aerial with a recommendation for award to the second low bidder, as the lowest bidder meeting specifications, Slagle Fire Equipment/KME, Cayce, South Carolina, in the amount of $284,028 for the purchase of one 1993 'KME' Renegade MFD cab and chassis with a 'KME' 174" streamline aerial body and 'KME' 55' firestix aerial. Funds are available in the Capital Improvement Program. The bid summary is attached hereto as Exhibit "B".

Mayor Michalove recognized members of the Asheville Fire Department who make up a equipment committee who researches equipment purchases for the Fire Department.

Councilwoman Field moved to 1) award the bid for the 75 foot aerial to Slagle Fire Equipment/KME, Cayce, South Carolina, in the amount of $323,261 for the purchase of one 1993 'KME' Renegade MFD cab and chassis with a 'KME' 177" streamline aerial body and 'KME' 75' firestix aerial; and 2) award the bid for the 50 foot aerial to Slagle Fire Equipment/KME, Cayce, South Carolina, in the amount of $284,028 for the purchase of one 1993 'KME' Renegade MFD cab and chassis with a 'KME' 174" streamline aerial body and 'KME' 55' firestix aerial. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT: None

VI. OTHER BUSINESS:

A. CERTIFICATION OF THE PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX PROPERTY LOCATED NORTH OF OVERLOOK ROAD (SECTION 2 OF BRAESIDE AT BILTMORE PARK)

B. RESOLUTION NO. 93-3 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION 2 OF BRAESIDE AT BILTMORE PARK)

City Manager Bean said that a petition requesting annexation of property located north of Overlook Road (Section 2 of Braeside at Biltmore Park) has been received and signed by the sole owners of the property. The City Clerk has investigated the sufficiency of the petition and has certified to the City Council the sufficiency thereof. This resolution will set a public hearing on the question of annexation for January 19, 1993, at 4:00 p.m. in the Council Chamber on the second floor of the City Hall Building.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-3. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 47

C. CLAIMS

City Manager Bean said the following claims were received by the City during the week of December 21-25, 1992: Charles Brackett (Water) and Lynn Snyder (Streets).

He stated that the following claims were received by the City during the week of December 28, 1992 - January 1, 1993: Grigg Electric (Parking Garage); Bill Byrne (Parks) and Emily Bryant (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:22 p.m.

CITY CLERK

MAYOR

BID SUMMARY
BID REQUEST NO. 405-93

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, NOVEMBER 12, 1992 3:00 P.M.

ONE (1) FIRE TRUCK WITH 75 FOOT AERIAL AND ONE (1) FIRE PUMPER
WITH 50 FOOT AERIAL FOR THE CITY OF ASHEVILLE FIRE DEPARTMENT

	SLAGLE'S FIRE EQUIPMENT/KME CAYCE, S. C.	TBC FABRICATION/BOARDMAN COMPANY OKLAHOMA CITY, OKLAHOMA	EMERGENCY APPARATUS, INC. DURHAM, N. C.
ITEM NO. 1: FIRE TRUCK WITH 75 FOOT AERIAL (QUINT) NO AWARD THIS ITEM: SPECIFICATIONS REVISED AND UNIT RE-BID.			
ITEM NO. 2: BASE BID - FIRE PUMPER WITH 50 FOOT AERIAL - MAXIMUM HEIGHT 138 INCHES			
CAB & CHASSIS			
MAKE:	KME	Boardman	Emergency One
MODEL:	Renegade		Cyclone Tilt Cab-Short
YEAR:	1993		1993
BODY			
MAKE:	KME	Boardman	Emergency One
MODEL:	174" Streamline Aerial		J016 All Aluminum
AERIAL			
MAKE:	KME	Boardman	Emergency One
MODEL:	55' FireStix	55' Apache	J316 All Aluminum
UNIT COST:	$252,570.00	$240,059.00	$283,930.00
**1 LOT OPTIONS AS SPEC.	$31,458.00	INCOMPLETE - Did not bid all options included in the recommended award.	INCOMPLETE - Did not bid all options included in the recommended award.
UNIT COST WITH OPTIONS:	$284,028.00	INCOMPLETE. True Comparison with all Recommended Options Can Not Be Shown	INCOMPLETE. True Comparison With All Recommended Options Can Not Be Shown
TERMS:	Net Upon Delivery and Acceptance	Cash Upon Delivery	Net Upon Receipt
DELIVERY:	210 - 320 Calendar Days	240 Calendar Days	240 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond

EXHIBIT A

BID SUMMARY
BID REQUEST NO. 405-93

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, NOVEMBER 12, 1992 3:00 P.M.

	* EMERGENCY APPARATUS, INC. DURHAM, N. C.	AMERICAN LAFRANCE BLUEFIELD, VA.	* AMERICAN LAFRANCE BLUEFIELD, VA	QUALITY MANUFACTURING INC. TALLADEGA, ALBAMA
ITEM NO. 1: FIRE TRUCK WITH 75 FOOT AERIAL (QUINT) NO AWARD THIS ITEM: SPECIFICATIONS REVISED AND UNIT RE-BID.				
ITEM NO. 2: BASE BID - FIRE PUMPER WITH 50 FOOT AERIAL - MAXIMUM HEIGHT 138 INCHES				
CAB & CHASSIS				
MAKE:	Emergency One	American LaFrance	HME	Spartan
MODEL:	Stock Unit	Patriot 10-man	Classic	Gladiator
YEAR:	Subject to prior	1992	1992	1993
BODY				
MAKE:	Emergency One	American LaFrance	American LaFrance	Quality Manufacturing, Inc.
MODEL:		Century - Modular	Century - Modular	Americana
AERIAL				
MAKE:	Emergency One	Snorkel	Snorkel	T
MODEL:		50' Telesquirt	50' Telesquirt	55' Apache
UNIT COST:	$268,972.00	$285,647.00	$295,997.00	$271,470.00
**1 LOT OPTIONS AS SPEC.	INCOMPLETE - Did not bid all options included in the recommended award.	$34,169.00	NO BID	$27,662.00
TOTAL BID WITH OPTIONS:	INCOMPLETE. True Comparison With All Recommended Options Can Not be Shown	$319,816.00	INCOMPLETE. True Comparison With All Recommended Options Can Not Be Shown	$299,132.00
TERMS:	Net Upon Receipt	Net Upon Delivery & Acceptance	Net Upon Delivery & Acceptance	Net 30
DELIVERY:	From Stock	180 Calendar Days	180 Calendar Days	270 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*Denotes an alternate bid.
** = Options include: Floodlights, A/C converter, Hydraulic ladder rack with right-side full-height compartments, Small Hand Line, Anti-lock brake system, tools and equipment.

BID SUMMARY
BID REQUEST NO. 408-93

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, DECEMBER 4, 1992 3:00 P.M.

ONE (1) FIRE TRUCK WITH 75 FOOT AERIAL FOR THE CITY OF ASHEVILLE FIRE DEPARTMENT

	SLAGLE'S FIRE EQUIPMENT/KME CAYCE, S. C.	CHIEF'S FIRE & RESCUE, INC. WARRENSVILLE, N. C.	TBC FABRICATION/BOARDMAN CO. OKLAHOMA CITY, OKLAHOMA	SUTPHEN CORPORATION AMLIN, OHIO
ITEM NO. 1: BASE BID - FIRE TRUCK WITH 75 FOOT AERIAL				
CAB & CHASSIS				
MAKE:	KME	Spartan	KME	Sutphen
MODEL:	Renegade MFD	Gladiator MFD	MFD	MT 753
YEAR:	1993	1993	1993	1993
BODY				
MAKE:	KME	JD	Boardman	Sutphen
MODEL:	177" Streamline Aerial	A-75	Custom	MT 753
AERIAL				
MAKE:	KME	RK Manufacturing	Boardman	Sutphen
MODEL:	75' FireStix	75' Rear Mount	75' Apache	MT
UNIT COST:	$312,601.00	$332,500.00	$340,993.00	$359,830.50
**1 LOT OPTIONS AS SPEC.	$10,660.00	INCOMPLETE - Did not bid all options in the recommended award.	$11,487.27	$11,756.38
TOTAL BID WITH OPTIONS:	$323,261.00	INCOMPLETE, True Comparison With All Recommended Options Can Not Be Shown	$352,480.27	$371,686.88
TERMS:	Net Upon Acceptance	Net 30	Cash Upon Delivery	Net Upon Acceptance
DELIVERY:	240 - 320 Calendar Days	330 Calendar Days	270 Calendar Days	365-425 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

EXHIBIT C

BID SUMMARY
BID REQUEST NO. 408-93

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, DECEMBER 4, 1992 3:00 P.M.

	EMERGENCY APPARATUS, INC. DURHAM, N. C.	* EMERGENCY APPARATUS, INC. DURHAM, N. C.	* SUTPHEN CORPORATION AMLIN, OHIO	SIMON LADDER TOWERS, INC. EPHRATA, PA.
ITEM NO. 1: BASE BID - FIRE TRUCK WITH 75 FOOT AERIAL				
CAB & CHASSIS				
MAKE:	Emergency One	Emergency One	Sutphen	Simon Duplex Trucks, Inc.
MODEL:	Cyclone Tilt Cab - Medium	Protector Tilt-Cab	MTP-70	D-9400 Signature
YEAR:	1993		1993	1993
BODY				
MAKE:	Emergency One	Emergency One	Sutphen	Simon Ladder Towers, Inc.
MODEL:	G070 All Aluminum	G070 All Aluminum	MT-753	75' Tandem Body
AERIAL				
MAKE:	Emergency One	Emergency One	Sutphen	Simon Ladder Towers, Inc.
MODEL:	G370 All Aluminum	All Aluminum	MTP-70 Mini-Tower/ Platform	Ah-75' Aerial
UNIT COST:	$367,498.00	$352,062.00	$379,386.00	$380,523.00
**1 LOT OPTIONS AS SPEC.	INCOMPLETE - Did not bid all options included in the recommended award.	INCOMPLETE - Did not bid all options included in the recommedned award.	INCOMPLETE - Did not bid all options included in the recommended award.	$11,450.00
TOTAL BID WITH OPTIONS:	INCOMPLETE. True Comparison With All Recommended Options Can Not Be Shown	INCOMPLETE. True Comparison With All Recommended Options Can Not Be Shown	INCOMPLETE. True Comparison With All Recommended Options Can Not Be Shown	$391,973.00
TERMS:	Net 5 Days After Acceptance	Net	Net 30	Net 30
DELIVERY:	240 Calendar Days	240 Calendar Days Subject to Prior Sale	May 1993 Subject to Prior Sale	240 - 300 Calendar Days
BID DEPOSIT:	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

* = Denotes alternate bid
** = Options include: Floodlights, communication system, electric rewind reels, anti-lock brakes, tools and equipment.

Tuesday - January 19, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison

INVOCATION

Councilman Moore gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the January 4, 1993, and January 5, 1993, City Council minutes as submitted.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JANUARY 31 - FEBRUARY 6, 1993, AS "CATHOLIC SCHOOLS WEEK"

Mayor Michalove proclaimed the week of January 31 - February 6, 1993, as "Catholic Schools Week."

B. PROCLAMATION PROCLAIMING FEBRUARY 1-5, 1993, AS "TRAVEL AGENT APPRECIATION WEEK"

Mayor Michalove proclaimed February 1-5, 1993, as "Travel Agent Appreciation Week."

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE KITCHEN PLACE PROJECT

Mayor Michalove opened the public hearing at 4:09 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove confirmed with the City Attorney that it would be appropriate to combine this public hearing with the following public hearing:

B. PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE BOSTON WAY PROJECT

Mayor Michalove opened the public hearing at 4:12 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean gave a brief report on the special assessment process for Boston Way and Kitchen Place. He summarized by saying that the bids for the add alternate came in a little over budget (estimate was $180,000 and bids came in at $220,000). He asked that Council delay taking any action on these matters until staff has had an opportunity to look at the Capital Improvements Plan and the Street and Sidewalk Bond Fund. He did state that they will ask the contractor to hold prices on the add alternate and this delay of action will not hurt the project in terms of when work would begin.

Mayor Michalove closed the public hearings at 4:15 p.m.

Councilman Moore moved to delay action on these matters until March 2, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

C. **PUBLIC HEARING TO LEVY SPECIAL ASSESSMENTS FOR THE SONDLEY ESTATE PROJECT**

RESOLUTION NO. 93-4 - RESOLUTION DIRECTING THAT THE SONDLEY ESTATE PROJECT BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Mayor Michalove opened the public hearing at 4:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from at least a majority of all property owners in the Sondley Estate Project for certain improvements to Sondley Drive East, Sondley Drive, Sondley Parkway, Sondley Woods Place and Sondley Drive South. He said that the estimate for the work is $171,000, of which 50% will be assessed against the benefitted property owners on the basis of the frontage abutting on the Sondley Estates Project at an equal rate per foot of frontage.

Mayor Michalove closed the public hearing at 4:22 p.m.

Mayor Michalove stated that members of Council have received a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-4. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 50

D. PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION II OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 2012 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD KNOWN AS SECTION II OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 4:23 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, from the Planning Department, said that on January 5, 1993, the City received a petition from the owners of Section II of Braeside at Biltmore Park Subdivision requesting annexation into the City of Asheville. This property has been subdivided into 21 lots by plat recorded with the Buncombe County Register of Deeds on December 30, 1992.

On January 5, 1993, the City Clerk certified that the petition was valid in that it was signed by the owners of real property being requested for annexation and that the property was contiguous to the Asheville city limits as required by N. C. Gen. Stat. sec. 160A-31 (a).

Approximately 1,800 linear feet of 6-inch water line is being installed by the developer along Braeside Circle and Deerhaven Lane. These lines are being constructed to Asheville-Buncombe Water Authority standards and will be maintained by the Water Authority.

Approximately 1,390 feet of 8-inch sewer line is being installed by the developer along Braeside Circle and Deerhaven Lane. These lines are being constructed to MSD standards and will be maintained by MSD.

Fire protection will be provided by the City of Asheville Fire Department beginning on the effective date of annexation.

Police protection will be provided by the City of Asheville Police Department beginning on the effective date of annexation.

Streets are being constructed to NC DOT standards and are expected to be accepted by the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the State maintained streets upon the effective date of annexation.

Solid waste collection services will be provided by the City to individual residences according to the same policies in effect in the City at the time of annexation.

The petitioner is requesting adoption of the ordinance on all three readings at this meeting, with an effective date of July 19, 1993. The current estimated real property valuation is $834,120 which yields an annual property tax of $5,005, based on the current City tax rate of $.60/$100 valuation.

Upon inquiry of Councilman Worley on the effective date, City Attorney Slawter stated that an agreement was reached with the petitioners that the effective date be the maximum allowed (6 months from the passage of the ordinance). He said the six month delay of the effective date is consistent with the statute requirements which allows the effective date to be set effective immediately upon adoption of an ordinance or any specified date within six months from the passage of the ordinance.

Mayor Michalove closed the public hearing at 4:27 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2012. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2012 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2012. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2012 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2012. This motion was seconded by Councilman Moore and carried unanimously

On a roll call vote of 6-0, Ordinance No. 2012 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 188

E. PUBLIC HEARING TO CLOSE AN UNNAMED, UNOPENED RIGHT-OF-WAY OFF SAND HILL ROAD BETWEEN POPPLE STREET AND DELAWARE AVENUE

RESOLUTION NO. 93-5 - RESOLUTION TO CLOSE THE UNNAMED AND UNOPENED STREET BETWEEN POPPLE STREET AND DELAWARE AVENUE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Michalove opened the public hearing at 4:28 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, said that as part of the Street and Sidewalk Improvement Program, the City of Asheville widened and realigned Delaware at its intersection with Sand Hill Road. To accomplish the widening and realignment, the purchase of additional right-of-way was required. Other persons have voiced an interest in purchasing the remnants of this right-of-way if the unopened, unnamed right-of-way between Popple Street and Delaware Avenue could be closed.

Mayor Michalove closed the public hearing at 4:30 p.m.

Mayor Michalove said members of Council have received a copy of the resolution and it will not be read.

Councilman Worley moved for the adoption of Resolution No. 93-5. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 52

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING KNOWN AS 10 SUNSET SUMMIT

Mr. Ken Maultsby passed out pictures to the Council of what 10 Sunset Summit presently looked like. He urged the City Council to terminate the ordinance because it serves no useful purpose.

Mr. Harvey Heywood, 12 Sunset Summit, spoke in support of the Council delaying action on this ordinance until the Board of Adjustment hears the surrounding property owners' appeal of the zoning administrator's issuance of the zoning permit.

Mr. Ray Myers stated that the same number of tons of concrete still remains on this property as did in 1984.

Councilman Peterson moved to delay the third reading until March 16, 1993, without further advertisement, in order to see what action the Board of Adjustment takes with regard to the appeal filed by the surrounding property owners. This motion was seconded by Councilwoman Field and carried unanimously.

B. THIRD READING OF ORDINANCE NO. 2009, AN ORDINANCE AMENDING ZONING OF EIGHT PARCELS LOCATED ON CROWELL ROAD

Mayor Michalove said that a public hearing was held on this matter on January 5, 1993, at which time the ordinance passed on its first and second readings.

Mayor Michalove said members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2009 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 180

C. THIRD READING OF ORDINANCE NO. 2010, RELATIVE TO AMENDING THE GROUP DEVELOPMENT PROCEDURES SECTION OF THE ASHEVILLE ZONING ORDINANCE

Mayor Michalove said that a public hearing was held on this matter on January 5, 1993, at which time the ordinance passed on its first and second readings.

Mr. Richard A. Mathews, President of the Coalition of Asheville Neighborhoods, was concerned that the proposed ordinance amendment, in its current form, does not recognize nor provide useful measures for mitigating the possible

damaging impact a large development may have on a residential community. He asked that the City Council consider including the following addition, or something similar, to the proposed amendment to ensure that neighborhood residents are involved in matters which will directly affect them: "A group development proposed to be located within, adjacent to, or no further than 250 feet from residentially zoned property, shall be subject to the same review and approval process as those proposals requiring variances as described in Section B, Item Number 11 of this Ordinance. This requirement may be waived provided the petitioner can demonstrate that he/she/it has held a meeting or meetings with the residents and property owners within 500 feet of the proposed development and has made all reasonable efforts to address their concerns."

Councilwoman Field moved to delay action on the third reading of this ordinance until February 16, 1993, in order to give the Planning Staff and the Legal staff an opportunity to look at the legality of the amendment proposed by the Coalition of Asheville Neighborhoods. This motion was seconded by Councilman Moore and carried unanimously.

IV. NEW BUSINESS:

A. MOTION RELATIVE TO THE MANUFACTURED HOUSING POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

It was the consensus of Council to delay this motion until the UDO Committee has an opportunity to prepare an appropriate recommendation.

B. FEES AND CHARGES REPORT

Councilmen Peterson and Swicegood briefly reported their recommendations on the City's Fees and Charges Manual. In summary, they said that, as proposed by David M. Griffith & Associates (who prepared the user fee study) and in accordance with the City's fiscal policy, all building inspections fees be adjusted to recover full cost of providing the service. They said that the street opening and street closing actions be at full cost recovery; all street cut permits, patching and driveway permit activities be at full cost recovery; that vet pick-up and set-out service be at full cost recovery, but that swaycar reservation and white good pick-up fees not be adopted at this time; and that the fee policy recommended by the Asheville Parks & Recreation Advisory Board be adopted. They said that the estimate on the annual impact these fees would have on the budget is $350,000.

Upon inquiry of Council about the fees could be adjusted, City Manager Bean said that it would take approximately 30 days.

Councilman Swicegood moved to accept the report of the Fees and Charges Committee and amend the Fees and Charges Manual accordingly. This motion was seconded by Councilman Peterson and carried unanimously.

C. RESOLUTION NO. 93-6 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DAVID M. GRIFFITH AND ASSOCIATES, LTD., FOR A FLEET MANAGEMENT STUDY (PHASE II)

City Manager Bean said that the City contracted with David M. Griffith and Associates, Ltd., for a study of the City's fleet management operations, which was completed in October of 1992. He said a recommendation from the report of that study was for a further study to establish shop and labor standards for the City's Division of Fleet Management. He said that after the shop and labor standards have been established, the Division will be able to set certain benchmark measures for cost, employee evaluation, and shop performance comparison purposes. The standards will also facilitate on-going comparisons to privatization and facilitate definitive performance appraisal measures for the labor force. This agreement is not to exceed $8,500.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution No. 93-6. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 54

D. ORDINANCE NO. 2013 - ORDINANCE ESTABLISHING STREET NAME AND ADDRESS REQUIREMENTS

District Chief Chris Morgan explained that this ordinance provides for the following:

1. Adoption of an official list of existing City street names;

2. Establishment of a standard means of assigning and correcting street address numbers;

3. Designation of a "street address administrator" to administer the ordinance (Zoning Enforcement Officer Gary McDaniel currently carries out many of the responsibilities that would be formalized in this ordinance);

4. Prohibition of future duplicate street names;

5. Presentation of a street naming/numbering proposal as part of a subdivision request if the subdivision includes new streets;

6. Coordination of street names with Buncombe County, so that duplication among City streets and streets throughout Buncombe County can be avoided; and

7. Establishment of a formal process for changing the name of an existing street. This process begins with a petition or request for street name change, and concludes with a public hearing before the City Council, and a final decision on street name changes by the City Council.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2013. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-0, Ordinance No. 2013 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2013. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2013 passed on its second reading.

V. CONSENT AGENDA:

A. MOTION TO APPROVE THE PRIORITY RATING SYSTEM FOR CDBG APPLICATIONS FOR FISCAL YEAR 1993 THAT HAS BEEN RECOMMENDED BY THE HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE OF CITY COUNCIL

B. BIDS RELATIVE TO MOTOR VEHICLES

Summary: Award of 35 vehicles consisting of 17 police vehicles, 7 sedans, 1 van, 4 utility type trucks and 6

trucks (various sizes). Total awards as recommended is $493,344.23. Bid summaries are attached hereto and made a part hereof as Exhibit "A".

C. RESOLUTION NO. 93-7 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE THE LOT LOCATED IN SOUTHWICKE ESTATES SUBDIVISION

Summary: The City owns a lot located on Wildwood Drive in Southwicke Estates Subdivision. Mr. and Mrs. Brenton E. Battles have made an offer for the purchase of this property in the amount of $13,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. This resolution will direct the Clerk to advertise a notice which shall contain a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first $1,000 and 5% of the remainder of the offered price of $13,000.

RESOLUTION BOOK NO. 20 AT PAGE 55

D. RESOLUTION NO. 93-8 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: Councilman Chris Peterson has resigned from the Downtown Commission leaving a vacancy for a Council member; Barbara Field has agreed to resigned her at-large appointment on the Downtown Commission in order to free up an additional seat on the Commission; Dee Williams and Donald Harrison have resigned as members of the Asheville Downtown Commission; and Theo Pritchett, who was filling in the position of President of the Downtown Association, has resigned as a member from the Asheville Downtown Commission. This resolution will: 1) Appoint Councilwoman Barbara Field, 33 Haywood Street, Asheville, North Carolina, 28801, to fill the position of a City Council member, term expiring when the length of her respective term of office expires; 2) Appoint Ms. Bonnie G. Hobbs, 49 Broadway, Asheville, North Carolina, 28801, to fill the unexpired term of Dee Williams, term expiring December 31, 1993, or until her successor is duly appointed and qualified; 3) Appoint Mr. Michael A. Linney, 36 Elizabeth Street, Asheville, North Carolina, 28801, to fill the unexpired term of Barbara Field, term expiring December 31, 1993, or until his successor is duly appointed and qualified; and 4) Appoint Charles Pickering, II, Biltmore Company, 1 North Pack Square, Asheville, North Carolina, 28801, to fill the unexpired term of Donald Harrison, term expiring December 31, 1993, or until his successor is duly appointed and qualified.

RESOLUTION BOOK NO. 20 AT PAGE 56

E. RESOLUTION NO. 93-9 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: Julian Price has resigned as a member of the Asheville Tree/Greenway Commission. This resolution will appoint Peter Loewer, P.O. Box 5039, Asheville, North Carolina, 28813, to fill the unexpired term of Julian Price, term expiring August 1, 1993, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 AT PAGE 57

Councilwoman Field moved to approve the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

At this time, Mayor Michalove asked to be excused from the group development discussion and voting on the issue relative to the Summit/Inn at the Ridge due to a conflict of interest. Councilman Worley moved to excuse Mayor Michalove in the discussion and voting relative to the Summit/Inn at the Ridge group development due to a conflict of interest. This motion was seconded by Councilman Moore and carried unanimously.

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on January 6, 1993:

UNC-ASHEVILLE - 114 BED RESIDENCE HALL

Mr. Green said that this group development request is for a 114-bed residence hall on the campus of the University of North Carolina at Asheville. The project is located adjacent to the Botanical Gardens which will be buffered from the development.

The site is zoned Office-Institutional (OI) and adjacent zones include OI, Residential-1, and Residential-3.

Access will be from one existing campus road and a new service road will be created. One new 49-car parking lot will be constructed and an existing lot will be paved.

The project meets all of the requirements of the Asheville Zoning Ordinance and all utilities and services are available to the site. At their January 6, 1993, meeting, the Asheville Planning and Zoning Commission recommended approval of the project. There has been no public comment.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

WEST ASHEVILLE ASSEMBLY OF GOD

Mr. Green said that the West Asheville Assembly of God is located at the corner of Bear Creek Road and I-240. A total of 11 structures are proposed including a sanctuary, school buildings, gym, home for women, day care, administration, and a retirement center. The project will be developed in phases with half of the sanctuary and a school building as Phase I. The property lies within the R-3, Residential zoning district and is bordered by single-family land uses and the I-240 right-of-way. The proposed development meets or exceeds the requirements of the Asheville Zoning Ordinance, including parking and landscaping.

At the January 4, 1993, meeting of the Board of Adjustment, the Church obtained a conditional use permit to allow a religious institution in the R-3 zoning district. At their January 6, 1993, meeting, the Planning and Zoning Commission voted to recommend approval of the development with two conditions - (1) Developer must obtain a driveway permit from NCDOT; and (2) A conditional use permit must be obtained for the Retirement Center prior to its construction.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

At this time, Mayor Michalove designated Councilwoman Field to preside over the meeting due to the absence of Vice-Mayor Ellison and due to his conflict of interest.

THE SUMMIT/INN AT THE RIDGE

Mr. Green said that the Summit/Inn at the Ridge is located at 100 Riceville Road and in the extraterritorial jurisdiction. The proposal includes a 348-unit residential community for senior citizens and a 60-bed addition to the existing extended care facility. The project will be developed in phases with the extended care addition as the first phase. The property lies within the Office-Institutional zoning district and is bordered by the VA Medical Center on three sides and the Blue Ridge Parkway to the north.

The proposed development meets or exceeds the requirements of the Asheville Zoning Ordinance, including parking and landscaping. While water availability has been approved and fire protection has been approved for the first phase, the Metropolitan Sewerage District is currently reviewing the request for sewer services.

At their January 6, 1993, meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project with three conditions (1) Obtain letter of allocation from Metropolitan Sewerage District; (2) Obtain driveway permit from NCDOT; and (3) Phase II through V must obtain approval for the availability of adequate fire protection services prior to issuance of building permits.

Mr. Green read a letter from the Blue Ridge Parkway which stated their concerns of the proposed structures seriously altering the visual experience for the Parkway visitors by creating a highly urbanized environment. They suggested the developer provide drawings or computerized projections illustrating the general appearance of the proposed structures in the vicinity of the Folks Art Center. They feel these drawings will help to more precisely assess the ultimate impact. Mr. Green said that the engineers have contacted the Blue Ridge Parkway.

Councilman Moore stated that he would recommend to the Mayor's UDO Committee to see if they could consider some amendment to the Zoning Ordinance that would treat the Parkway as a special case.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

At this time, Mayor Michalove returned to the meeting to preside.

B. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick voiced concerns relative to (1) making sure the public is made aware of when the motion on the manufactured housing issue for the UDO will come before the Council; (2) the acoustics of the Council Chamber; (3) making more chairs available when large groups are in the Council Chamber; (4) time and possible day changes for the City Council meetings; and (5) an amendment to the rule limiting speakers 3 or 10 minutes on important issues.

Mayor Michalove summarized his reasoning for the rule limiting speakers to 3 or 10 minutes. He also stated that there is a maximum number of people who can be in the Council Chamber at one time.

Councilwoman Field stated that she was also aware of the acoustical problem in the Council Chamber and is bringing a consultant in (at no cost to the City) to look at the problem.

C. MEETINGS IN VARIOUS SECTIONS OF THE CITY

Councilman Worley suggested having Council meetings in various sections of the City periodically.

D. AUDITOR SELECTION

Mayor Michalove appointed Councilmen Swicegood and Worley to work with City staff on the auditor selection.

E. CLAIMS

The City Manager stated that the following claims were received by the City of Asheville during the week of January 4-8, 1993: AAA Parts (Water); Hugh Steven Davis (Water); Shirley Deweese (Streets); Sarah Dixon (Streets); Interim Health Care (Streets); Melody Samuels (Water); Randi D. Sloan (Police); Debra Boyd (Sanitation); and Patti Glazer (Parking Garage).

He said the following claims were received during the week of January 11-15, 1993: Jackie Johnson (Streets); Allen Phillips (Water); Betty Miller (Water); and Phil Hurst (Water).

He stated that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:20 p.m.

William D. Malatt, Jr.
CITY CLERK

V. Lee Michalove
MAYOR

BID SUMMARY — CITY OF ASHEVILLE PURCHASING DIVISION — BID OPENED: WEDNESDAY, DECEMBER 9, 1992 2:00 P.M.

BID REQUEST NO. 407-93 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
7. (1) 4-Wheel Drive, 4-Door, Utility Type Truck, Fully Enclosed for the Fire Department	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	S10 Blazer	Explorer	Explorer
	AMOUNT:	$15,329.05	$19,366.00	$19,580.00
	DELIVERY:	60 to 90 Days	60 Days	35 to 45 Days
	EPA MPG CITY:	16	15	15
	ENERGY EFF. COST* (EA)	$18,141.55	$22,366.00	$22,580.00
8. (1) 4-Wheel Drive, 2-Door, Utility Type Truck, Fully Enclosed for the Fire Department	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	S10 Blazer	Explorer	Explorer
	AMOUNT:	$14,510.74	$18,338.00	$18,423.00
	DELIVERY:	60 to 75 Days	60 Days	35 to 45 Days
	EPA MPG CITY:	16	15	15
	ENERGY EFF. COST* (EA)	$17,323.24	$21,338.00	$21,423.00
9. (1) 1 Ton Heavy duty 4-wheel Drive Crew Cab Pickup for the Fire Department	MAKE:	1993 Chevrolet	1993 Ford	
	MODEL:	CK30943	350	
	AMOUNT:	$18,617.56	$16,856.00	NO BID
	DELIVERY:	60 to 75 Days	60 to 75 Days	
10. (2) 4-Wheel Drive, 4-Door Utility Type Passenger Vehicle for the Fire Dept.	MAKE:	1993 Chevrolet		
	MODEL:	CK20906 Suburban		
	UNIT COST:	$23,195.54		
	AMOUNT:	$46,391.08	NO BID	NO BID
	DELIVERY:	90 to 120 Days		
11. (1) Mid Size 4-Door Sedan for Fleet Mangement Division	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	1WL149 Lumina	Taurus	Taurus
	AMOUNT:	$10,853.48	$10,497.00	$10,620.24
	DELIVERY:	60 to 75 Days	60 Days	35 to 45 Days
	EPA MPG CITY:	19	18	18
	ENERGY EFF. COST* (EA)	$13,221.90	$12,997.00	$13,120.24

Exhibit "A"

BID SUMMARY
PAGE -1- CONTINUED

BID REQUEST NO. 407-93 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY ASHEVILLE, N. C.	PRESTIGE DODGE ASHEVILLE, N. C.	CAROLINA INTERNAT. TKS. ASHEVILLE, N. C.
7. (1) 4-Wheel Drive, 4-Door, Utility Type Truck, Fully Enclosed for the Fire Department	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	1993 GMC Jimmy $15,875.00 60 Days 16 $18,687.50	NO BID	NO BID	NO BID
8. (1) 4-Wheel Drive, 2-Door, Utility Type Truck, Fully Enclosed for the Fire Department	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	1993 GMC Jimmy $15,370.00 60 Days 16 $18,182.50	NO BID	1993 Dodge Ram Charger $19,124.00 90 to 150 Days 12 $22,874.10	NO BID
9. (1) 1 Ton Heavy duty 4-wheel Drive Crew Cab Pickup for the Fire Department	MAKE: MODEL: AMOUNT: DELIVERY:	1993 GMC Sierra $19,350.00 60 Days	NO BID	NO BID	NO BID
10. (2) 4-Wheel Drive, 4-Door Utility Type Passenger Vehicle for the Fire Dept.	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY:	1993 GMC Suburban $21,977.00 $43,954.00 60 Days	NO BID	NO BID	NO BID
11. (1) Mid Size 4-Door Sedan for Fleet Mangement Division	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID	1993 Dodge Dynasty $13,073.85 90 to 120 Days 20 $15,323.85	NO BID

BID SUMMARY
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BID REQUEST NO. 407-93 — AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
12 and 13. (1) Cab & Chassis with Dump Body for Sanitation Division	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR: AMOUNT: DELIVERY:	NO BID	1993 Ford 600 LR-25 Rugby $19,499.00 90 Days	1993 Ford F600G Cylinder Hoist Pemberton $19,372.00 45 to 60 Days
14. (1) 1/2 Ton Heavy Duty 2-Wheel Drive Pickup for the Parks and Recreation Dept.	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	1993 Chevrolet CC10703 1500 $9,026.72 60 to 75 Days 17 $11,673.78	1993 Ford F 150 $8,770.00 60 Days 15 $11,777.00	1993 Ford F 150 $8,697.72 35 to 45 Days 15 $11,697.72
15 and 16. (1) Cab & Chassis with 4-Cubic Yard Minimum Dump Body for Parks and Recreation Dept.	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR.: AMOUNT: DELIVERY:	NO BID	1993 Ford F700 300U Godwin $34,197.00 90 Days	1993 Ford F700D 300U Godwin $36,417.00 45 to 60 Days
17 and 19. (1) 3/4 Ton Heavy Duty 4-Wheel Drive Cab & Chassis and Service Body for Parks & Rec. Dept.	TRUCK MAKE/MODEL: BODY/MODEL: MFGR: AMOUNT: DELIVERY:	1993 Chevrolet 2500 967ABSW Reading $14,719.76 60 to 90 Days	1993 Ford F250 SL-96C Morrison $15,077.00 90 Days	1993 Ford 3/4 Ton 4X4 F-26 SL 96C Morrison $15,652.72 35 to 45 Days

BID SUMMARY
PAGE -2- CONTINUED

BID REQUEST NO. 407-93 — AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE

ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY ASHEVILLE, N. C.	PRESTIGE DODGE ASHEVILLE, N. C.	CAROLINA INTERNA. TKS. ASHEVILLE, N. C.
12 and 13. (1) Cab & Chassis with Dump Body for Sanitation Division	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR: AMOUNT: DELIVERY:	NO BID	1993 GMC TC7H042 Carolina Truck & Body $23,624.00 150 Days	NO BID	1993 International #4600 Twin States Body $22,300.00 120 Days
14. (1) 1/2 Ton Heavy Duty 2-Wheel Drive Pickup for the Parks and Recreation Dept.	MAKE: MODEL: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	1993 GMC Sierra $11,070.00 60 Days 17 $13,717.06	NO BID	NO BID	NO BID
15 and 16. (1) Cab & Chassis with 4-Cubic Yard Minimum Dump Body for Parks and Recreation Dept.	TRUCK MAKE/MODEL: DUMP BODY/MODEL: MFGR.: AMOUNT: DELIVERY:	NO BID	1993 GMC TC7H042 Godwin $34,882.00 150 Days	NO BID	1993 International 4900 Twin States Body $36,010.00 120 Days
17 and 19. (1) 3/4 Ton Heavy Duty 4-Wheel Drive Cab & Chassis and Service Body for Parks & Rec. Dept.	TRUCK MAKE/MODEL: BODY/MODEL: MFGR: AMOUNT: DELIVERY:	1993 GMC Sierra 967ABSW Reading $14,980.00 60 Days	NO BID	1993 Dodge AD7262 967ABSW Reading $17,008.80 90 to 120 Days	NO BID

BID SUMMARY
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BID REQUEST NO. 407-93 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
18 and 20. (1) 1 Ton Heavy Duty Cab & Chassis with 3-Cubic Yard Minimum Dump for Parks & Recreation Department	TRUCK MAKE/MODEL: BODY/MODEL: MFGR: AMOUNT: DELIVERY:	1993 Chevrolet 3500 U-250-8 Fontaine $14,596.91 60 to 90 Days	1993 Ford F 350 3-4DB Rugby $14,976.00 90 Days	1993 Ford F37 3 Yd. Pemberton $15,034.72 35 to 45 Days
21. (2) Mid-Size 4-Door Sedans for the Engineering Division	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	1993 Chevrolet 1WL69 Lumina $10,668.98 $21,337.96 60 to 90 Days 19 $13,037.40	1993 Ford Taurus $10,297.00 $20,594.00 60 Days 18 $12,797.00	1993 Ford Taurus $10,620.24 $21,240.48 35 to 45 Days 20 $12,870.24
22. (1) 15 Passenger Van for the Police Dept.	MAKE: MODEL: AMOUNT: DELIVERY:	1993 Chevrolet CG31606 Sportvan $16,376.42 90 to 120 Days	1993 Ford F350 Wagon $19,576.00 60 Days	1993 Ford E350 Super Club Wagon $18,892.60 35 to 45 Days

BID SUMMARY
PAGE -3- CONTINUED

BID REQUEST NO. 407-93		AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE			
ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY ASHEVILLE, N. C.	PRESTIGE DODGE ASHEVILLE, N. C.	CAROLINA INTERNA. TKS. ASHEVILLE, N. C.
18 and 20. 1) 1 Ton Heavy Duty Cab & Chassis with 3-Cubic Yard Minimum Dump for Parks & Recreation Department	TRUCK MAKE/MODEL: BODY/MODEL: MFGR: AMOUNT: DELIVERY:	1993 GMC Sierra 8' Tipper Crysteel $15,050.00 60 Days	1993 GMC TC3100 Godwin $18,896.00 150 Days	NO BID	NO BID
21. 2) Mid-Size 4-Door Sedans for the Engineering Division	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID	1993 Dodge Dynasty $12,997.00 $25,994.00 90 to 120 Days 20 $15,247.00	NO BID
22. 1) 15 Passenger Van for the Police Dept.	MAKE: MODEL: AMOUNT: DELIVERY:	1993 GMC Rally Van $18,095.00 60 Days	NO BID	1993 Dodge AB3L53 $18,157.25 90 to 120 Days	NO BID

BID SUMMARY
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BID REQUEST NO. 407-93 — AUTOMOTILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.	KEN WILSON FORD INC. CANTON, N. C.
25. (4) Full-Size 4-Door Sedans for the Police Department	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	1BL19 Caprice Classic	Crown Victoria	Crown Victoria
	UNIT COST:	$10,261.26	$11,818.00	$11,973.00
	AMOUNT:	$41,045.04	$47,272.00	$47,892.00
	DELIVERY:	60 to 90 Days	90 Days	35 to 45 Days
	EPA MPG CITY:	17	18	18
	ENERGY EFF. COST* (EA)	$13,576.62	$14,318.00	$14,473.00
27. 12) Police Vehicles - (Blue & White) for the Police Department	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	1BL19 Caprice Classic	Crown Victoria	Crown Victoria
	UNIT COST:	$12,393.30	$13,123.00	$13,097.00
	AMOUNT:	$148,719.60	$157,476.00	$157,164.00
	DELIVERY:	90 to 120 Days	90 to 120 Days	35 to 45 Days
	EPA MPG CITY:	17	17	17
	ENERGY EFF. COST* (EA)	$15,040.35	$15,770.00	$15,744.06
28. 5) Police Vehicles (Blue & White) with Bar Light System & Plexiglass Barrier Installed for the Police Department	MAKE:	1993 Chevrolet	1993 Ford	1993 Ford
	MODEL:	1BL19 Caprice Classic	Crown Victoria	Crown Victoria
	UNIT COST:	$13,870.27	$14,573.00	$14,916.00
	AMOUNT:	$69,351.35	$72,865.00	$74,580.00
	DELIVERY:	90 to 120 Days	90 to 120 Days	35 to 45 Days
	EPA MPG CITY:	17	17	17
	ENERGY EFF. COST* (EA)	$16,517.32	$17,220.06	$17,563.06
TERMS:		Net 30	Net 30	Net 30
BID DEPOSIT:		5% Bid Bond	5% Official Check	5% Bid Bond

*EEC: BID PRICE + $\frac{60,000}{\text{EPA MPG}}$ X $0.75 gal.

BID SUMMARY
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BID REQUEST NO. 407-93		AUTOMOTILES AND TRUCKS FOR CITY OF ASHEVILLE			
ITEM NO.		HARRY'S CADILLAC PONTIAC GMC ASHEVILLE, N. C.	CAROLINA TRUCK & BODY ASHEVILLE, N. C.	PRESTIGE DODGE ASHEVILLE, N. C.	CAROLINA INTERNA. TKS. ASHEVILLE, N. C.
25. 4) Full Size 4-Door Sedans for the Police Department	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID	NO BID	NO BID
27. 12) Police Vehicles - (Blue & White) for the Police Department	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID	NO BID	NO BID
28. 5) Police Vehicles (Blue & White) with Bar Light System & Plexiglass Barrier Installed for the Police Department	MAKE: MODEL: UNIT COST: AMOUNT: DELIVERY: EPA MPG CITY: ENERGY EFF. COST* (EA)	NO BID	NO BID	NO BID	NO BID
TERMS: BID DEPOSIT:		Net 30 5% Bid Bond	Net 30 5% Bid Bond	Net 30 5% Bid Bond	Net 30 5% Money Order

Incomplete Bid: Double (A) Body Builders bid bodies only.

*EEC: BID PRICE + $\frac{60.000}{\text{EPA MPG}}$ X $0.75 gal.

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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This is to certify that the microphotographs appearing on this film are true and accurate reproductions of records originated during the normal course of business by the City of Asheville Buncombe County and consist of Minutes and Includes Index

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Maria L. Parson
Microfilm Camera Operator

STATE OF NORTH CAROLINA
DEPARTMENT OF CULTURAL RESOURCES

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CITY OF ASHEVILLE

MINUTES

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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

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Tuesday - February 2, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Ellison gave the invocation.

APPROVAL OF THE MINUTES

Mayor Michalove announced the approval of the January 19, 1993, City Council minutes as submitted.

I. PROCLAMATIONS:

A. REPORT FROM THE ARSON TASK FORCE

District Attorney Ron Moore, Chairman of the Asheville-Buncombe Task Force ("A-B Arson Task Force") said that earlier this year, Asheville and Buncombe County joined efforts to control arson throughout Buncombe County by forming the A-B Arson Task Force. He then gave a brief report on what the A-B Arson Task Force has accomplished since its formation.

B. PRESENTATION OF QUARTERLY B*E*S*T AWARD

City Manager Bean presented a quarterly B*E*S*T award to Debbie Faulkner from the Police Department. He said Debbie was nominated for rescuing a homeless family which she found sleeping on concrete and no food to eat. The family had fled from city to city hoping to escape drug infested neighborhoods. Debbie worked both on duty and off duty using her own resources to find food and lodging for this family. Debbie is always going above and beyond to help those who are in desperate need.

C. PRESENTATION OF QUARTERLY B*E*S*T AWARD

City Manager Bean presented a quarterly B*E*S*T award to Pam McGrayne, Personnel Director. He said Pam was nominated for noticing one of the elevator operators having

a problem with her arm hurting and advised her to go see the nurse and that she would run the elevator until she got back. Pam has shown us that good customer relation skills cannot only be used with citizens but co-workers as well.

II. PUBLIC HEARINGS:

A. **CONTINUATION OF A PUBLIC HEARING RELATIVE TO REZONING GRACE PLAZA PROPERTY (PIN NO. 9740-18-32-8255) FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT**

B. **CONTINUATION OF A PUBLIC HEARING RELATIVE TO PARTIAL REZONINGS OF 21 AND 29 LAKESHORE DRIVE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT**

Mayor Michalove said that these public hearings were opened on January 5, 1993, and continued until this date pursuant to a request from the Petitioners' attorney Beth Arrowood.

Mayor Michalove then read the following letter from Hugh Read and Betty Vaughn (petitioners) dated and received in the City Clerk's Office on February 1, 1993: "This is to inform you that Betty Vaughn and Hugh Read have decided not to pursue the rezoning of their property at 21 and 29 Lakeshore Dr., Asheville, N.C."

Mayor Michalove also read the following letter signed by Karl H. Straus, Attorney for Avon Investment Associates, Owner, dated and received in the City Clerk's Office on February 1, 1993: "RE: PIN 9740 18328255 - Avon Investment Associates wishes to withdraw from the February 2, 1993 Agenda of the City Council the matter of the re-zoning of the above-designated lot."

Due to the petitioners withdrawing, no further action on these matters would be taken.

III. OLD BUSINESS:

A. **ORDINANCE NO. 2013 - THIRD READING OF AN ORDINANCE ESTABLISHING STREET NAME AND ADDRESS REQUIREMENTS**

Mayor Michalove stated that this ordinance passed on its first and second readings on January 19, 1993.

Mayor Michalove then stated that members of Council had been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 7-0, Ordinance No. 2013 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 191

IV. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS TO PURCHASE PROPERTY LOCATED NEAR HARVEST HOUSE

At the request of the City Attorney, this matter was delayed.

B. REVIEW OF SPECIFICATIONS FOR BIDDING SANITATION SERVICES

City Manager Bean said that the City Council instructed staff to prepare specifications for contracting sanitation services for approximately 5,700 households. He then reviewed the bid specifications, which included the Instructions to Bidders, the Scope of Work and the contract. He touched upon the areas selected and why, the services to be performed, the time period involved, the alternate of recycling, and the alternatives for City employees should privatization occur.

Councilman Worley stated that privatization was a goal of the Council and was glad the process has come this far.

Councilwoman Field felt the specifications were fair and reasonable but did state some reservations.

Councilman Peterson said he felt the specifications were fair and thought this privatization would allow the City to cut their budget and still give taxpayers good service.

Upon inquiry of Vice-Mayor Ellison concerning the insurance requirements, City Manager Bean said that these requirements were reviewed by the City's Risk Manager and they met his approval.

Upon inquiry of Councilman Swicegood relative to communications, City Manager Bean explained what that specific section is intended to do.

City Manager Bean also stated that the disposal site having to be designated by the City ensures the City that the site is a legal and acceptable place to dump.

He then confirmed that the contractor will pay for the tipping fee and then bill the City monthly with substantiating tonnage figures which support the request for payment.

City Manager Bean then stated that all discussion relative to these bids should be addressed to the official city representative which is Jim Ewing, Director of Public Works.

Councilman Worley moved to proceed with the bid process. This motion was seconded by Councilman and carried unanimously.

C. RESOLUTION NO. 93-10 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH RESIDENTS OF THE CARTER COVE ROAD AREA

Councilman Moore moved to excuse Councilman Worley from participating in this issue due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Charles Penny, Assistant City Manager, said that on December 15, 1992, the Council instructed City staff to obtain proposals for the design of the new bridge on Carter Cove Road and the evaluation of the bids. Three bids from engineering firms were received ranging from $4,500 to $7,500. One bidder submitted an alternate bid of design and construction at a cost of $49,090. The City then asked the other two bidders if they could give an alternate bid for design and construction. One engineering firm withdrew their proposal and the other proposal came in at $65,000, which was higher than the first design and construction proposal.

He explained that the $100,000 figure given to the City Council for construction of the bridge in December of 1992 was based on the designing of a culvert under the bridge. Now, there will be no piping in the creek.

He said that staff recommends the City award the bid to NCDC for the amount of $49,090 to design and construct the bridge. He said that the agreement with the property owners calls for the property owners to pay $12,500 and the City to pay the remainder of the cost. He said his goal is to have the bridge to be in place by May 30, 1993.

Councilman Moore moved to authorize the City Manager to award the contract to NCDC in an amount not to exceed

$50,000 for the design and construction of the bridge on Carter Cove Road. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Mayor Michalove said members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-10. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 58

V. CONSENT AGENDA:

A. RESOLUTION NO. 93-11 - RESOLUTION AUTHORIZING THE SALE OF A LOT IN SOUTHWICKE ESTATES SUBDIVISION

Summary: The City owns a lot located on Wildwood Drive in Southwicke Estates Subdivision. Mr. and Mrs. Brenton E. Battles have made an offer for the purchase of this property in the amount of $13,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. On January 22, 1993, the City Clerk advertised a notice which contained a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first $1,000 and 5% of the remainder of the offered price of $13,000. The City has not received another offer.

RESOLUTION BOOK NO. 20 AT PAGE 60

B. RESOLUTION NO. 93-12 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: Theo Pritchett, who was filling in the position of President of the Downtown Association, resigned as a member of the Asheville Downtown Commission. This resolution will appoint Mr. M. Charles Cloninger to serve a term according to the length of his office as President of the Downtown Association, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 AT PAGE 61

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

VI. OTHER BUSINESS:

A. CONCERNS REGARDING ASHEVILLE POLICE DEPARTMENT

Police Officer Alan O'Donnell read a prepared statement relative to the police personnel's morale, financial well-being and safety.

Councilman Peterson said that a comparison study of police salaries in other cities should be made. He suggested looking at the Capital Improvements Plan to see if new buildings had to be built or if that money could be used for higher salaries.

Vice-Mayor Ellison felt that the taxpayers would need to be educated if the request from the Police Department of $1.5 million was addressed. He said the $1.5 million increase would raise taxes by 8% per $100 property valuation. He hoped that the officers would give the Council the opportunity to go through the budget process.

Councilwoman Field felt the Council needed to look closely at the pay plan.

Councilman Moore felt that if the City raised salaries in the Police Department, other departments of the City would demand raises also. He said that if a pay increase was given, it would be given to all City employees, not only the Police Department employees.

Councilman Worley said that this issue would be addressed during the upcoming budget process at which time the Council would have the opportunity to look at all resources available to them.

Councilman Swicegood said the Council should consider pay increases instead of devoting money to projects like the new public works facility.

Mayor Michalove stated that the City Council's role is to establish the pay plan for all City employees. He said the pay plan is a high priority that the Council will be considering during the up-coming budget process. He said it was impossible to move out of the context of the budget at this time but the stage can certainly be set now. He urged all employees to work through the system by going to their department head, who in turn goes to the City Manager. He said that the City Council then looks to the City Manager to bring them information.

B. CLAIMS

City Manager Bean said that the following claims have been received for the week of January 18-22, 1993: Aundra Thomas (Water); David Torres (Water); John Naegle (Water); Southern Bell (Water); Asheville Paving (Police); and Caroline Parris (Civic Center).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:30 p.m.

William E. Holcatel, Jr. — CITY CLERK

H. Lee Michalove — MAYOR

Tuesday - February 16, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Councilman Peterson gave the invocation.

RECOGNITION

Mayor Michalove recognized 1st and 2nd graders from Isaac Dickson Elementary School.

I. PROCLAMATIONS:

A. RECOGNITION OF DETECTIVE JUDY ROMICK

Mr. Donald W. Rabon, Chairman of the Law Enforcement Department of the North Carolina Justice Academy, presented Detective Judy Romick with a certificate for successful completion of the Criminal Investigator Certificate Program.

B. RECOGNITION OF FORMER CITY MANAGER INTERN TOM BROOKS

City Manager Bean presented former City Manager Intern Tom Brooks with a Certificate of Appreciation for his work during his internship.

C. RECOGNITION OF FORMER CITY MANAGER INTERN JOHN WILLIAMS

City Manager Bean presented former City Manager Intern John Williams with a Certificate of Appreciation for his work during his internship.

D. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD TO ROBERT G. WURST

City Manager Bean presented Robert G. Wurst with the Distinguished Budget Presentation Award. He said this award, from the Government Finance Officers Association, is

the highest form of recognition in governmental budgeting and represents a significant achievement by the City of Asheville.

E. RESOLUTION NO. 93-13 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CLATIE THOMAS

Mayor Michalove read the resolution stating that Clatie Thomas has been with the City for 18 years and has requested retirement from her position as City Hall Services Supervisor in the Parks and Recreation Department. He expressed the City Council's appreciation to Clatie for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-13 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 62

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2010 - AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF ASHEVILLE RELATIVE TO ARTICLE 6 - GROUP DEVELOPMENTS

Mayor Michalove stated that this ordinance passed on its first and second readings on January 5, 1993.

Mr. Gerald Green, Senior Planner, said that on January 5, 1993, Mr. Rich Mathews, President of the Coalition of Asheville Neighborhoods ("CAN"), felt the group development projects "located within, adjacent to, or no further than 250 feet from residentially zoned property" be subject to a public hearing before City Council. At Council's request, he researched the recommendation and based upon a review of 1992 group development project files, it appears that implementation of CAN's recommendation would significantly affect the impact of the proposed ordinance amendment. He said inclusion of CAN's recommendation would subject most large development projects to review by the Planning & Zoning Commission and the City Council. Because of the linear nature of much of Asheville's commercial, office/ institutional, and industrial zoning, most projects in these zones are adjacent to or within 250 feet of residentially zoned property.

He said the Planning staff recommends approval of the ordinance amendment as originally proposed. Issues which address the impact of non-residential development and multi-

family residential development on adjacent residential property should be fully addressed in the revision of the City's land development regulations. These issues include landscaping, buffering, setbacks, transition zones, height limitation, and traffic impacts, among others. Planning staff is currently researching these issues and developing recommendations for inclusion in the new land development regulations.

He said that he talked with representatives of CAN about the City staff recommendation and told them that the adjacent property owners would be notified informally of any group development within 250 feet of a residential zone.

Vice-Mayor Ellison felt that an amendment to this ordinance was appropriate so that the notification to adjacent property owners would be mandatory.

Vice-Mayor Ellison moved to amend the ordinance to require that notice be given to abutting property owners for proposed projects that would have been subject to group development review by the Planning & Zoning Commission and the City Council prior to the thresholds being increased. The notice given would be in the same manner as if the project were to be reviewed by the Planning and Zoning Commission and the City Council. This motion was seconded by Councilwoman Field and carried unanimously.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2010, as amended, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 182

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR WILLIAMSBURG SUBDIVISION

Ms. Mary Weber, Urban Planner, said that the proposed Williamsburg Subdivision is located in Oakley at Merchant Street near Fairview Road. The five lot subdivision is on two acres on sloping terrain. The site is zoned R-3 and will be developed for housing.

She said a new street will be constructed off of Merchant Street with a maximum grade of 14.3%. All utility services are available to the site and the developer has obtained a letter of credit to ensure that the infrastructure will be installed.

She said that at the Planning & Zoning Commission meeting of September 2, 1992, they recommended approval of the preliminary plat with one condition, i.e. to maintain the leveling area at the intersection of Williamsburg Place and Merchant Street as noted on the plan.

Upon inquiry of Mayor Michalove of what was proposed, Ms. Weber stated that there would be single family homes in this area.

Upon inquiry of Vice-Mayor Ellison, Mr. Tim Swann stated that the railroad tracks would pose no problems with the subdivision.

Councilman Swicegood moved for the approval of the final plat of Williamsburg Subdivision, subject to the developer maintaining the leveling area at the intersection of Williamsburg Place and Merchant Street as noted on the preliminary plat. This motion was seconded by Councilman Worley and carried unanimously.

B. ORDINANCE NO. 2014 - ORDINANCE AMENDING CHAPTER 23A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (REGULATION OF TREES)

Mr. Dennis Wilson, member of the Asheville Tree/ Greenway Commission, reviewed the Commission's recommended revisions to the tree planting policy as follows:

"Section 23A-2. Tree Planting Policy.

The City of Asheville encourages tree planting by private individuals, groups and businesses on public property and street rights-of-way. However, to obtain maximum benefit from these efforts, all plantings on public rights-of-way or public property owned by the City of Asheville, its agents, boards and commissions shall be done in accordance with the applicable City Street Plan. The City Street Plan shall be developed on a street-by-street basis by the Asheville Tree and Greenway Commission. **("and approved by the Asheville City Council." was deleted)**

In the event that any person, including governmental or other public agencies, requests that tree planting be done other than as described or shown in the City Street Plan, that person shall make a request to the Asheville Tree and Greenway Commission, who shall then determine whether or not the City Street Plan shall be so amended. If the Commission denies that request, the person may appeal that decision to the City Council. (new language)

> The Parks and Recreation Department of the City of Asheville shall have the authority to maintain trees planted on public rights-of-way or public property owned by the City of Asheville, its agents, boards, authorities and commissions."

Mr. Wilson felt with the deletion of the approval by the Asheville City Council of the Street Plan, the Commission would be able to have the freedom to modify the plan as they go along without having to come before the Council for any minor changes.

Vice-Mayor Ellison felt that an appeal time provision be written into the ordinance.

It was Council's consensus not to delete the City Council approval of the Street Plan since the City Council is ultimately responsible for the Plan.

Mayor Michalove felt the Council needed to approve the Street Plan changes when new streets were added or deleted, not when the Tree/Greenway Commission changed species of trees.

Councilman Worley moved to amend Section 23-A (first paragraph) to read as follows: (underlining denotes addition from what the Tree/Greenway Commission recommended):

> "The City of Asheville encourages . . . The City Street Plan shall be developed on a street-by-street basis by the Asheville Tree and Greenway Commission and approved by the Asheville City Council. The initial plan, and the subsequent addition or deletion of any streets to or from the plan, shall be approved by the Asheville City Council. The City street plan shall be presented to the City Council by the Tree/Greenway Commission for review not less than annually."

This motion was seconded by Vice-Mayor Ellison and carried unanimously.

Vice-Mayor Ellison moved to amend Section 23-A (second paragraph) to provide that notice of any such appeal shall be in writing and shall be filed with the City Clerk within 10 days from the date of the decision of the Asheville Tree/Greenway Commission. This motion was seconded by Councilman Worley and carried unanimously.

Mr. Wilson then reviewed the Commission's recommended revisions to the tree protection during construction section as follows:

Section 23A-8. Tree Protection During Construction.

Except by permit, construction activities under the drip line of a regulated tree are prohibited. Activities include, but are not limited to, trenching or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

When applying for a permit, the party doing construction work under the drip line of a regulated tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan shall be subject to the approval of the Director of the Parks and Recreation Department, or his or her designee. The plan must be approved prior to a permit being issued. (new language)

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2014, as amended. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-0, Ordinance No. 2014, as amended, passed on its first reading.

C. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS TO PURCHASE PROPERTY LOCATED NEAR HARVEST HOUSE

City Manager Bean said that this item has been deleted from the agenda.

D. ORDINANCE NO. 2015 - AN ORDINANCE AMENDING SECTION 28-52 (B) OF CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from residents of Westwood Avenue and Waynesville Avenue to designate both streets are "no truck" routes. He said the Traffic Engineering Division completed a study on Waynesville Avenue and its findings show an excessive volume of commercial trucks on this residential street. It is their recommendation to prohibit the truck traffic on Waynesville Avenue from Ridgeway Drive to Westwood Place.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2015. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2015. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its second reading.

E. ORDINANCE NO. 2016 - BUDGET AMENDMENT RELATIVE TO A GRANT FROM THE FEDERAL HIGHWAY ADMINISTRATION FOR TRANSPORTATION PLANNING

City Manager Bean said that this budget amendment is to establish an account code to receive and disburse funds from a grant for $32,650 from the Federal Highway Administration for transportation planning.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2016. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 199

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 2, 1993

B. RESOLUTION NO. 93-14 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED ALLEY RUNNING WEST OFF PEARL STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 16, 1993

RESOLUTION BOOK NO. 20 - PAGE 63

C. **RESOLUTION NO. 93-15 - RESOLUTION APPOINT LARRY CASPER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD**

Summary: The term of Frank Smith expired on January 19, 1993. This resolution will appoint Larry Casper to serve a three year term, term expiring January 19, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 65

D. **RESOLUTION NO. 93-16 - RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE ASHEVILLE REGIONAL HOUSING CONSORTIUM FOR HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR 1993-1994**

Summary: This action will authorize submission of the HOME project funding application for 1993 funds. Funds will be allocated to the following agencies: Asheville Housing Authority FAIR City Wide Rehab $206,371 and Mountain Housing Opportunities, Inc., Affordable Homeownership Program $36,418. Other funds to be leveraged includes $40,000 NC Housing Finance Agency and $24,000 CDBG. The initial HOME Investment Partnership Program funds will be $242,789 and the fiscal year 1993 match will be $60,697.

RESOLUTION BOOK NO. 20 - PAGE 66

E. **RESOLUTION NO. 93-17 - RESOLUTION SUPPORTING THE DEVELOPMENT OF PERMANENT HEADQUARTERS FOR THE BLUE RIDGE PARKWAY ON PARKWAY LANDS AT HEMPHILL KNOB**

RESOLUTION BOOK NO. 20 - PAGE 67

F. **RESOLUTION NO. 93-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH WHEELER CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS AZALEA ROAD EIGHT-INCH SEWER LINE PROJECT**

Summary: This project consists of approximately 420 linear feet of 8-inch sanitary sewer line and 190 linear feet of 4-inch sanitary sewer service lines and all associated appurtenances according to City specifications. Sealed bids were opened on January 26, 1993, with Wheeler Construction Company Inc. being the low bidder at $29,960 and it is recommended that the contract be awarded to Wheeler Construction Company Inc. (See attached bid summary which is attached hereto and made a part hereof as Exhibit "A".) It is anticipated that construction will begin March 1, 1993, and that the project will be completed by March 31, 1993.

RESOLUTION BOOK NO. 20 - PAGE 69

G. RESOLUTION NO. 93-19 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE WITH W.S. HARRISON JR. AND WIFE, CHARLOTTE D. HARRISON, FOR A PARKING LOT ON EAGLE STREET

Summary: The City of Asheville has leased a parking lot located on Eagle Street for a number of years and desires to continue to lease that parking lot. The owners of that lot have proposed a lease to the City for five years.

RESOLUTION BOOK NO. 20 - PAGE 70

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following action was taken by the Planning and Zoning Commission on February 3, 1993:

OVERLOOK POINTE BI-LO

Mr. Green said that Hughes Development Corporation is proposing the construction of a 38,000 square feet Bi-Lo grocery store to be located at the southwest intersection of Overlook Road and Hendersonville Road. The site is zoned commercial-highway and is bordered on the south and east by commercial development, on the north and west by multi-family residential (Crowfields Condominiums), and on the southwest by single-family residential. The availability of adequate water, sanitary sewer, and fire protection services have been approved.

He said the developer is requesting a variance of 7.5 feet on the building setback adjacent to Overlook Road. The required setback is 17.5 feet and the proposed setback is 10 feet. With the exception of the variance request, the proposed development meets or exceeds the requirements of the Asheville Zoning Ordinance.

He said that Planning has received significant public comment regarding this project, especially from the Crowfields Development. Their concerns include increases in traffic, problems with stormwater runoff, and the removal of trees along Overlook Road.

He said the developer has scheduled a meeting with representatives from the Crowfields for the purpose of addressing their concerns in an informal setting.

Mr. Green said that at their February 3, 1993, meeting, the Planning and Zoning Commission voted to recommend approval of the site plan and the request for a variance for the development with two conditions:

1. The developer must obtain driveway permits from NCDOT; and

2. The variance request must be granted by City Council.

He said that the City has received a request from the attorney representing Crowfields to set the public hearing for March 16 instead of March 2. The request states that postponing the public hearing would allow more time for review of the project and that one of the main representatives for the Crowfields would not be able to attend the March 2 public hearing.

He said the developer is working under a tight timeframe and is opposed to postponing the public hearing until March 16. A letter from Philip G. Carson, attorney for Hughes Development Corporation, has also been received requesting the public hearing be held on March 2 per normal procedures.

Mr. Tracy McFarlan, President of the Executive Committee of Crowfields, asked the Council to set the public hearing on this matter for March 16 in order to give Crowfields more time to prepare a thorough presentation to the City Council on their point of view for this group development.

Mr. Jackson Hughes, Hughes Development Corporation, asked the Council to set the public hearing on March 2, as would normally be done for a group development, stressing that they are working with and providing information to Crowfields in order to address their concerns.

Upon inquiry of Mayor Michalove as to when Crowfields was notified of the proposed group development, Mr. Green stated that letters dated January 20, 1993, were sent in addition to the notice in the City Works Page.

Councilman Swicegood moved to set a public hearing on this matter on Tuesday, March 2, 1992, at 4:00 p.m. in the Council Chamber of the City Hall Building. This motion was seconded by Councilman Worley and carried unanimously.

B. ASHEVILLE TRANSIT AUTHORITY

Councilman Peterson moved to have a joint meeting with the Asheville City Council and the Asheville Transit Authority. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

C. ASHEVILLE TRANSIT AUTHORITY

Ms. Laura Deaton supported the joint meeting of the City Council and Asheville Transit Authority and asked that Mr. Mark Richards also be invited to the meeting. She felt that an investigation into the Asheville Transit Authority and the firing of Mr. Richards was in order.

D. ASHEVILLE SCHOOL BOARD INTERVIEWS

Ms. Jamie Ross, representative of the League of Women Voters, read a prepared statement relative to the upcoming appointments to the Asheville School Board.

E. THOROUGHFARE COMMITTEE

Mr. Greg Gregory, representative of the WNC Alliance Transportation Task Force, requested the City Council endorse the re-establishment of the citizens advisory group to work with the Asheville-Buncombe Transportation Advisory Committee on the Asheville Urban Area Thoroughfare Plan.

Councilwoman Field stated that this re-establishment process is currently underway.

F. WATER DEPARTMENT EMPLOYEE COMMENTS

Mr. Carroll Williams, President of the Asheville-Buncombe Public Workers, voiced concern over the $60,000-plus spent on Water Department studies. He said these problems have been going on for years and felt now is the time to get them resolved. He offered the assistance of his group to work together to improve City government and employee relations.

Mr. Bob Warren, attorney representing a group of Water Department employees, expressed his concern that the recent efficiency study and attitude study would be not properly implemented. Mr. Warren indicated that there were numerous employee concerns that needed to be addressed.

City Manager Bean explained the process that the Water Authority's Budget Committee would be using in conjunction with the City staff to implement the studies. He said that he would provide reports to the City Council on the progress of implementation.

Mr. Peter Rauschenplat, employee in the Water Maintenance Division, spoke about how jobs need to be completed right the first time, saving the taxpayers money and thus helping the City run efficiently.

Ms. Jean Sales expressed concern over high water and sewer bills. She asked that a public hearing be held by the Water Authority and City Council for taxpayers and water users to address the problems of waste she stated.

Mayor Michalove stated that a public hearing will be held by the Water Authority in early May on their budget (which the items Ms. Sales addressed would fall under), the City Council would be holding a public hearing on the City's budget in June (which will be advertised on the City Works Page) and the Water Authority meets the second Tuesday of every month which is open to the public.

Mr. Monroe Gilmore spoke about the need for substantial change in order for improvements to be made.

Ms. Leni Sitnick urged the Council to support the word of their employees.

G. CLAIMS

City Manager Bean said the following claims have been received by the City during the week of January 25-29, 1993: Southern Bell (Water); and Southern Bell (Water).

He said the following claims have been received during the week of February 1-5, 1993: Ruth Shatto (Streets); Lynn Worley (Police); Ted Kimmel (Water); Shari Lae (Water); Dorothy C. Johnson (Water); Charlotte Dotson (Water); Jean Rathburn (Water); Margaret Shaffer (Streets); Robin Haile (Water); Florence McNeely (Water); and Mary Louise Axelson (Streets).

He said the following claims have been received during the week of February 8-12, 1993: Rush Clifford III (Police); Charles Brackett (Water); Barbara McAfee (Water); Tecora Young (Water); David Mann (Water); John McKinley (Water); Don Neale (Water); and Franklin Hyatt Jr. (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:10 p.m.

William S. Walcott, Jr. — CITY CLERK

I. H. Michalove — MAYOR

AZALEA ROAD SANITARY SEWER PROJECT
PROJECT NO. SC-93-001/CONTRACT NO. E-393
BID OPENING DATE: JANUARY 26, 1993 AT 10:00 A.M.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ENGINEER'S ESTIMATE	ENGR. EST. TOTALS	WHEELER CONST. CO. WEAVERVILLE, NC LIC NO 14910 UNIT PRICE	WHEELER EXTENDED TOTALS	TERRY BROS. CONST. LEICESTER, NC LIC NO 10295 UNIT PRICE	TERRY EXTENDED TOTALS	HOBSON CONST. CO. ARDEN, NC LIC NO 3756 UNIT PRICE	HOBSON EXTENDED TOTALS
1.	8-IN SANITARY SEWER LINE	420	L.F.	$20.00	$8,400.00	$30.00	$12,600.00	$35.00	$14,700.00	$35.00	$14,700.00
2.	4-FT DIA. PRE-CAST CONCRETE MANHOLES	6	EA.	$1,200.00	$7,200.00	$1,500.00	$9,000.00	$350.00	$5,700.00	$2,000.00	$12,000.00
3.	4-IN SANITARY SEWER SERVICE LINE	190	L.F.	$12.00	$2,280.00	$12.00	$2,280.00	$15.00	$2,850.00	$25.00	$4,750.00
4.	4-IN SANITARY CONNECTION & CLEAN OUT INSTALLATION (INCLUDES CONNECTION TO EXISTING SEWER SERVICE LINES)	6	EA.	$250.00	$1,500.00	$250.00	$1,500.00	$200.00	$1,200.00	$200.00	$1,200.00
5.	PAVEMENT RESTORATION										
	A. CRUSHED AGGREGATE BASE COURSE	20	TON	$15.00	$300.00	$15.00	$300.00	$12.00	$240.00	$15.00	$300.00
	B. I-2 SURFACE COURSE	20	TON	$75.00	$1,500.00	$75.00	$1,500.00	$100.00	$2,000.00	$100.00	$2,000.00
	C. WASHED STONE	20	TON	$15.00	$300.00	$12.00	$240.00	$20.00	$400.00	$20.00	$400.00
6.	EXTRA SEWER LINE BEDDING (WASHED STONE)	20	TON	$15.00	$300.00	$12.00	$240.00	$20.00	$400.00	$20.00	$400.00
7.	ROCK EXCAVATION AND SELECT BACKFILL	20	CY.	$75.00	$1,500.00	$65.00	$1,300.00	$20.00	$400.00	$75.00	$1,500.00
8.	LANDSCAPING	LUMP	SUM	$1,500.00	$1,500.00	$1,000.00	$1,000.00	$3,000.00	$3,000.00	$2,500.00	$2,500.00
	TOTAL CONTRACT PRICE				$24,780.00		$29,900.00		$30,890.00		$39,750.00

Exhibit "A"

Tuesday - March 2, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Joseph Carr Swicegood

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS:

A. CERTIFICATE OF RECOGNITION TO THE ASHEVILLE HIGH SCHOOL'S MEN'S BASKETBALL TEAM

Vice-Mayor Ellison, on behalf of the City Council, commended and honored the Asheville High School's Men's Basketball Team for their outstanding undefeated season and wished them well in the upcoming State Playoffs which begin March 11, 1993.

B. RESOLUTION NO. 93-20 - RESOLUTION WELCOMING THE SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove read the resolution and recognized Mr. Wright Waters with the Southern Basketball Conference. He said that on March 4, 5, 6 and 7, 1993, the Southern Conference will be holding their annual Southern Conference Basketball Tournament in Asheville. The City Council expresses its appreciation to the Southern Conference for selecting Asheville for its annual tournament, wishes form them another successful year, and extends a warm welcome to all participants.

Resolution No. 93-20 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 77

C. RESOLUTION NO. 93-21 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM MARVIN HENSLEY

Mayor Michalove read the resolution stating that William Marvin Hensley has been with the City for 21 years and has requested retirement from his position as Fire

Captain in the Asheville Fire Department. He expressed the City Council's appreciation to Mr. Hensley for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-21 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 78

D. RESOLUTION NO. 93-22 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DEAN WHITESIDE

Mayor Michalove read the resolution stating that Dean Whiteside has been with the City for 19 years and has requested retirement from his position as Fire Captain in the Asheville Fire Department. He expressed the City Council's appreciation to Dean for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-22 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 79

E. RESOLUTION NO. 93-23 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE EUGENE ELLINGTON

Mayor Michalove read the resolution stating that Eugene Ellington has been with the City for 23 years and has requested retirement from his position as Line Maintenance Worker I in the Water Department. He expressed the City Council's appreciation to Eugene for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-23 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 80

F. LIGHT-UP-YOUR-HOLIDAYS FESTIVAL

Ms. Carolyn Ketchum thanked the City Council, on behalf of the tourism industry, for their support of the Light Up Your Holidays Festival. She was pleased to report that this Festival was selected as one of the 100 events in North America.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO OVERLOOK POINTE BI-LO GROUP DEVELOPMENT

Mayor Michalove opened the public hearing at 4:14 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Hughes Development Corporation is proposing the construction of a of a 38,000 square feet Bi-Lo grocery store to be located at the southwest intersection of Overlook Road and Hendersonville Road on a 4-acre site. The site is zoned commercial-highway and is bordered on the south and east by commercial development, on the north and west by multi-family residential (Crowfields Condominiums), and on the southwest by single-family residential. The availability of adequate water, sanitary sewer, and fire protection services have been approved.

He said the developer is requesting a variance of 7.5 feet on the building setback adjacent to Overlook Road. The required setback is 17.5 feet and the proposed setback is 10 feet. With the exception of the variance request, the proposed development meets or exceeds the requirements of the Asheville Zoning Ordinance.

He said that the Planning Department has received significant public comment regarding this project, especially from the Crowfields Development. Their concerns include increases in traffic, problems with stormwater runoff, and the removal of trees along Overlook Road.

He said the developer has met with representatives from the Crowfields for the purpose of addressing their concerns. He stated that as a result of those meetings, the developer will leave the majority of trees along Overlook Road which will screen most of the building and parking area from Crowfields.

He said that traffic counts were conducted by the North Carolina Department of Transportation and those studies confirmed that Hendersonville Road is adequate to maintain the increase in traffic.

He said that at the Planning & Zoning Commission's February 3, 1993, meeting, the Commission voted to recommend approval of the site plan and the request for a variance for the development with two conditions:

1. The developer must obtain driveway permits from NCDOT; and

2. The variance request must be granted by City Council.

Mayor Michalove thanked everyone for their letters relative to this project and felt it was the consensus of the Council to look at factual engineering information as it relates to the water runoff issue. He also stressed that the Council would be looking at the health, safety and welfare issue of the area residents.

City Attorney Slawter explained the appropriate procedures that the Council has control over relative to the granting of variances.

Mr. Phil Carson, attorney for the developer, said that the developers have gone out of their way to try to address Crowfields' concerns. The loss of trees issue has been resolved by leaving virtually all the trees along Overlook Road except at the driveway entrances. He felt the water runoff concerns have been addressed by the engineering studies done. He urged the Council to grant the variance which would allow the building to be 17 feet back from its side yard property lines.

Mr. Jackson Hughes, representing Hughes Development Corporation, echoed Mr. Carson's comments and stated that the new Bi-Lo would produce 125 new jobs along with additional property tax for the City. By use of charts, he showed that the water runoff from its front parking lot will pass through Crowfields' Dingle Creek before the stormwater surge upstream comes through. He said the runoff from the store's roof and back area will be contained in a detention pond that will hold the water for gradual release.

Upon inquiry of Councilman Moore, Mr. Hughes confirmed that if the variance was not granted, the majority of the existing trees would have to removed. He explained that the rear dock could no longer remain in the back area without the variance and would have to be moved to the Overlook Road side area.

Councilwoman Field suggested that the building be moved closer to Hendersonville Road which would require some of the 191 parking spaces to be lost. Mr. Hughes responded by saying that with the truck traffic the way it is, it would not be feasible to move the building, and he felt that the loss of any parking spaces might result in people having to park on the side of Overlook Road.

Vice-Mayor Ellison explained how important it was for the Council to look at the stormwater runoff studies performed by the developer's engineer and also the Crowfield residents.

Upon inquiry of Vice-Mayor Ellison if Hughes Development Corporation would correct any deficiencies or pay for any damage to Crowfields' property as a result of stormwater runoff, Mr. Hughes stated that they cannot be held responsible for any future development in that area caused by others, e.g. the 180 units to be developed on 12 acres.

Mr. O. E. Starnes, attorney representing Crowfields Condominiums, spoke in opposition to the proposed Bi-Lo. He explained each of their concerns which includes, but is not limited to, (1) substantial increase of water runoff onto Crowfields' properties; (2) the request for a variance; (3) buffering along the north and west side of the site and night lighting; and (4) the safety and increased traffic on the use of Overlook Road to access into this property. He furnished the Council with information relative to their concerns which included pictures of the area.

Mr. John Munson, resident of Crowfields, spoke in opposition to this project stating that even though the developer intends to leave most of the existing trees, the close proximity of the building and parking lot area to those trees would cause the roots to be destroyed, thus killing the trees.

Mr. Tracy McFarlan, President of the Executive Committee at Crowfields, spoke in opposition of the Bi-Lo project stating that, among other things, the widening of Overlook Road would cause a major problem and property values for the condominiums close to Overlook Road will drop.

Mr. Robert Euler, resident of Crowfields, spoke against the project mentioning that all the water runoff will be going to creeks on Crowfields' property.

Mr. Clay Hipshire, adjoining property owner on Overlook Road, was concerned that if the Bi-Lo was built, he would be looking at a large concrete building with substantial increase of truck traffic.

Mr. Howard Carlson, resident of Crowfields, spoke in opposition to the project and stated that Crowfields has already spent $75,000 to repair their creek banks and anymore water runoff would require further repair.

Mayor Michalove closed the public hearing at 5:42 p.m.

Councilman Worley moved to postpone any action on this matter until March 16, 1993, in order to give the City an opportunity to review the engineering studies of the developer and Crowfields. This motion was seconded by Councilman Moore and carried unanimously.

III. UNFINISHED BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 2015 - AN ORDINANCE AMENDING SECTION 28-52, TRAFFIC OF TRUCKS ON DESIGNATED RESIDENTIAL STREETS, TO INCLUDE A PORTION OF WAYNESVILLE AVENUE**

Mayor Michalove stated that this ordinance was passed on its first and second reading on February 16, 1993. He refreshed the Council's memory that the Traffic Engineering Division completed a study on Waynesville Avenue and its findings show an excessive volume of commercial trucks on this residential street. It is their recommendation to prohibit the truck traffic on Waynesville Avenue from Ridgeway Drive to Westwood Place.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2015 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 198

B. **SECOND READING OF ORDINANCE NO. 2014 - AN ORDINANCE AMENDING CHAPTER 23A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

Mayor Michalove said that this ordinance passed on its first reading on February 16, 1993, with amendments to the proposed draft submitted by the Tree/Greenway Commission ("Commission"). The amendments to the draft submitted by the Commission were that (1) the City Street Plan shall be developed on a street-by-street basis by the Commission and approved by the Asheville City Council; (2) the initial City Street Plan, and the subsequent addition or deletion of any streets to or from the plan, be approved by the City Council; (3) the City Street Plan shall be presented to the City Council by the Commission for review not less than annually; and (4) that notice of any such appeal shall be in writing and shall be filed with the City Clerk within 10 days from the date of the decision of the Commission.

Mayor Michalove said members of Council have been previously furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2014 passed on its second reading.

IV. NEW BUSINESS:

A. **RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT AT ITS WESTERN END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES**

Vice-Mayor Ellison moved to postpone action on this matter until March 30, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

B. **RESOLUTION DIRECTING THE KITCHEN WAY PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES**

Vice-Mayor Ellison moved to postpone action on this matter until March 30, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

C. **RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO SET FORTH FEES FOR FIRE INSPECTION SERVICES**

Fire Chief John Rukavina explained that as of January 1, 1993, the State Building Code mandates fire inspections in most structures in Asheville, other than one- and two-family homes. In order to comply with this mandate, additional resources are required in the Fire Department. This resolution would establish fees for mandatory fire inspections that would cover these costs. He said that the fees would be $12.50 for inspections annually, $22.50 for biennial inspections, and $32.50 for triennial inspections. He said the income from fees is estimated at approximately $76,000 per year; additional fire code enforcement expenses are estimated at approximately $76,000 per year.

Fire Chief Rukavina explained the Fire Department's plan for carrying out this mandate. Firefighters are being trained for state certification as fire inspectors, and will conduct many of the required inspections while on duty. Costs for this approach would include training and incentives for state certification. Council members indicated their approval of this approach.

Councilman Moore moved for the adoption of the resolution. This motion was seconded by Councilman Worley.

Upon inquiry of Vice-Mayor Ellison if business owners could have the inspections done privately and provide a certificate to the City, Fire Chief Rukavina stated that all inspections must be performed by certified inspectors employed by a unit of government.

It was the consensus of Council that it was unfair to charge businesses that have to be inspected once every three years, three times as much as those that have to be inspected annually. Councilwoman Field suggested perhaps charging businesses by size or occupancy.

Upon inquiry of Councilman Peterson about implementing this fee, Fire Chief Rukavina stated that he would be having 120 firefighters (who are being training to be certified inspectors) making personal visits to the businesses letting them know what the inspection requirements were.

In response to Councilman Peterson's question about businesses that are not up to Code, Fire Chief Rukavina stated that the enforcement of the Fire Code is a maintenance code for existing conditions. He explained that if an old building met Code requirements at the time of construction, then it would probably meet today's Fire Code. He said the inspectors would only be looking for items of a basic nature, e.g., locked exit doors, accumulations of trash, etc.

Councilman Worley moved to postpone action on this matter until April 27, 1993, in order to give the Fire Chief an opportunity to present a more equitable fee system and give the public adequate notice of the fees to be charged, responsibity for payment, and other information the City Manager will be able to give the Council on their budget worksession on April 20, 1993, relative to this matter. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

D. RESOLUTION NO. 93-24 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE SCHOOL BOARD

Mayor Michalove said that the terms of Harriett Haith, J.R. Downs and Carol Matthews, as members of the Asheville School Board, will expire on April 1, 1993. On February 22, 1993, Mr. Downs submitted a letter stating that because of job responsibilities that require him to travel out of state on a regular basis, such travel will prohibit him from

serving as a member of the Asheville School Board. He asked that his name be withdrawn for consideration for reappointment.

Mayor Michalove said that after a lengthy process of interviews, reviewing questionnaires and considering numerous letters relative to supporting the different candidates, it was the Council's decision to reappoint Carol Matthews, 15 Lynwood Road, Asheville, N.C., 28804; appoint Hazel M. Turner, 321 Woodberry Apartments, Asheville, N.C., 28801; and appoint Susan Carscaddon Fisher, 36 Clarendon Road, Asheville, N.C., 28806, all to four year terms, terms to expire April 1, 1997, or until their successors have been duly appointed and qualified.

Mayor Michalove thanked Marsha Bate, Joe Bly, Wanda Henry-Coleman, Brian Weinkle and Mae Catherine White for taking time out of their busy schedules to participate in the School Board candidate process.

Mayor Michalove said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Resolution No. 93-24 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 81

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 16, 1993

B. RESOLUTION NO. 93-25 - RESOLUTION OF INTENT TO CLOSE A PORTION OF LENOX COURT, AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MARCH 30, 1993

RESOLUTION BOOK NO. 20 - PAGE 82

C. RESOLUTION NO. 93-26 - RESOLUTION OF INTENT TO CLOSE A 10' ALLEY LYING BETWEEN LENOX COURT AND MURDOCK AVENUE, AND CALLING A PUBLIC HEARING ON THE QUESTION FOR MARCH 30, 1993

RESOLUTION BOOK NO. 20 - PAGE 84

D. RESOLUTION NO. 93-27 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 42 ROBERTS STREET

RESOLUTION BOOK NO. 20 - PAGE 86

E. RESOLUTION NO. 93-28 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MOUNT CLARE AVENUE

RESOLUTION BOOK NO. 20 - PAGE 88

F. RESOLUTION NO. 93-29 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MARCH 30, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 16 CLYDE STREET

RESOLUTION BOOK NO. 20 - PAGE 90

G. RESOLUTION NO. 93-30 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Summary: This resolution authorizes the Mayor to execute a modified grant agreement in the amount of the State Grant from $1,001,967 to $1,068,707 with the North Carolina Department of Transportation for Phase II Baggage Claim/Rental Car/Second Floor Administrative Office Addition at the Asheville Regional Airport.

RESOLUTION BOOK NO. 20 - PAGE 92

H. RESOLUTION NO. 93-31 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY AGREEMENTS TO ESTABLISH RETROACTIVELY THE CITY OF ASHEVILLE CAFETERIA PLAN, THE CITY OF ASHEVILLE INSURANCE BENEFITS PLAN, THE CITY OF ASHEVILLE MEDICAL REIMBURSEMENT PLAN, AND THE CITY OF ASHEVILLE DEPENDENT CARE REIMBURSEMENT PLAN

Summary: This resolution will authorize the City Manager to sign those documents to amend and restate plans to meet Internal Revenue Service requirements. These plans are fully funded in the current year's operating budget.

RESOLUTION BOOK NO. 20 - PAGE 94

I. RESOLUTION NO. 93-32 - RESOLUTION AUTHORIZING SUBMISSION OF AN ASHEVILLE REGIONAL HOUSING CONSORTIUM APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR HOME INVESTMENT PARTNERSHIPS PROGRAM GRANT FOR FY 93-94

Summary: This action will authorize submission of the Asheville Regional Housing Consortium's HOME grant application for 1993 funds. The application is submitted by the Lead Entity of the Consortium. Following are the member governments approved by the Consortium Board of Directors for project funds within their jurisdiction: City of Asheville, Town of Woodfin, Buncombe County and Madison County. As required by HUD regulations, 15% of program funds will be awarded to non-profit Community Housing Development organizations.

The total HOME grant will be $837,000. The City of Asheville will receive $242,789 for program cost and $83,700 for administrative cost. The total match for grant is $188,324 and the City's share of match is $60,697.

RESOLUTION BOOK NO. 20 - PAGE 95

J. RESOLUTION NO. 93-33 - RESOLUTION APPOINTING A MEMBER TO THE MINORITY BUSINESS COMMISSION

Summary: The term of Matthew Bacoate, as the representative of the YMI Cultural Center on the Minority Business Commission, expired August 1, 1992. This resolution will appoint Mr. Michael Linney, to serve as the representative of the YMI Cultural Center on the Minority Business Commission. His term will be for one year, expiring August 1, 1993, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 96

K. RESOLUTION NO. 93-34 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO EXECUTE AN ACCREDITATION AGREEMENT WITH THE COMMISSION ON ACCREDITATION FOR LAW ENFORCEMENT AGENCIES INC.

Summary: The Police Department desires to become an accredited police department pursuant to the standards and guidelines set forth by the Commission for Accreditation for Law Enforcement Agencies Inc. The City Manager will be authorized to execute an accreditation agreement not to exceed $16,000, approved by the City Attorney, for the purpose of the Commission assessing the City Police Department for accreditation purposes in accordance with their standards.

RESOLUTION BOOK NO. 20 - PAGE 97

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said the following claims were received by the City of Asheville during the week of February 15-19, 1993: Sharon Young (Water); Howard T. Leonhardt (Sanitation); Florence Pearson (Sewer); Scott Rhodes (Water); Bobby Price (Water); Phil Reeves (Water); Norman Rogers (Water); and Steve Gossett (Water).

He said the following claims were received during the week of February 22-26, 1993: Evelyn Talbot (Water); Athena Sawyer (Water); Paul Mount Construction (Sewer); Bill Peterson (Parking); and Ken McCain (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 6:30 p.m.

William S. Worley, Jr. H. M. Michalove

CITY CLERK MAYOR

33-A

Tuesday - March 16, 1993 - 4:00 p.m.

MEETING WAS CANCELLED DUE TO WEATHER CONDITIONS

All matters originally scheduled to be considered by the Asheville City Council at its meeting on Tuesday, March 16, 1993, will be considered by the Asheville City Council at its regular meeting at 4:00 p.m. on Tuesday, March 30, 1993, in the Council Chamber on the 2nd Floor of the City Hall Building.

William D. Maxcy
CITY CLERK

H. M. Mumbling
MAYOR

Tuesday - March 23, 1993 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove (out of town)

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-35 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE NANCY PENLAND

Vice-Mayor Ellison read the resolution stating that Nancy Penland has been with the City for 29 years and has requested retirement from her position as Police Officer Sr. in the Asheville Police Department. He expressed the City Council's appreciation to Nancy for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Resolution No. 93-35 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 98

B. REPORT RELATIVE TO BLIZZARD 1993

City Manager Bean updated the Council members on the blizzard that left over 24" of snow on Asheville last week. He commended the Police Department, Fire Department, Street Division, Water Department, Fleet Management Division, Buncombe County, utility companies, and all the volunteers for doing an outstanding job during this devastating period of time.

He estimated that the blizzard cost the City over a quarter of a million dollars, which included private contractors who helped with snow removal, overtime, equipment rental, equipment usage, etc. He said that FEMA representatives are in the process of making a final determination on whether this will be declared a disaster area and if so, the City will be eligible for reimbursement by FEMA for its expenses.

He passed out weather emergency bulletins that were constantly being sent out to the media in order to keep the public aware of the blizzard conditions.

Councilman Moore expressed his appreciation to all the people involved.

Vice-Mayor Ellison thanked all the employees and volunteers for doing everything possible to keep the City running smoothly.

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 2014, AN ORDINANCE AMENDING CHAPTER 23A OF THE CODE OF ORDINANCES RELATIVE TO THE REGULATION OF TREES**

Vice-Mayor Ellison said that this ordinance passed on its first reading on February 16, 1993, with amendments to the proposed draft submitted by the Tree/Greenway Commission ("Commission"), and passed on its second reading on March 2, 1993.

Vice-Mayor Ellison said members of Council have been previously furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2014 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 196

IV. NEW BUSINESS:

A. **RESOLUTION NO. 93-36 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & COMPANY FOR AUDITING SERVICES FOR FISCAL YEAR 1992-93**

City Manager Bean said that this resolution will authorize the Mayor to execute a contract, the form of which shall be approved by the Local Government Commission, with Crisp, Hughes & Company, Certified Public Accountants, in the amount of $40,800 for auditing services for fiscal year 1992-93.

Councilman Worley stated that he and Councilman Swicegood were on a committee that reviewed all the

proposals sent in and not only was Crisp, Hughes & Company the best proposal, but it was also the best price.

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-36. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 99

B. RESOLUTION NO. 93-37 - RESOLUTION IN SUPPORT OF HOUSE BILL 134 AND SENATE BILL 48 - LOCAL FINANCIAL SECURITY

City Manager Bean said HB 134 and SB 48 are identical bills under consideration by the NC General Assembly. These bills would give local governments more financial security and restore growth to state-collected local revenues and taxsharing funds. They are a compromise worked out by a Fiscal Trends Study Commission subcommittee that was co-chaired by Rep. Martin Nesbitt of Asheville. The proposed resolution expresses Council's support for the two bills. It also expresses Council's thanks to Rep. Nesbitt, who introduced the House bill, and to Reps. Marie Colton and Jim Crawford, who co-sponsored it.

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-37. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 100

V. CONSENT AGENDA:

A. APPROVAL OF THE REGULAR MEETING HELD ON MARCH 2, 1993.

B. BIDS RELATIVE TO ANNUAL CONTRACT FOR ASPHALT

Summary: Recommend award of term purchase contract to furnish the City's annual requirement for bituminous concrete materials (asphalt) to the only bidder, APAC-Carolina Inc., Asheville, North Carolina, for a total of

$163,800. Purchases will be made on an as needed basis. A complete bid summary is attached hereto and made a part hereof as Exhibit "A".

C. **RESOLUTION NO. 93-38 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW CONTRACT WITH DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS ON BEHALF OF THE CITY OF ASHEVILLE**

Summary: The City has contracted school crossing security since 1989. DAP Security Inc. has provided dependable services since that time and is the only security vendor to submit a proposal for services. Currently DAP Security Inc. provides this service to the City at an annual cost of $64,411 and they have proposed to continue to provide this service to the City for the next year with no increase in annual cost.

RESOLUTION BOOK NO. 20 - PAGE 102

D. **RESOLUTION NO. 93-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT WITH CAROLINA POWER & LIGHT COMPANY FOR THE EAST ASHEVILLE BOOSTER STATION.**

Summary: As part of the site acquisition negotiations with Warren Wilson College, it was mutually agreed that underground electric service was preferable to overhead lines.

RESOLUTION BOOK NO. 20 - PAGE 104

E. **MOTION SETTING A PUBLIC HEARING FOR APRIL 6, 1993, RELATIVE TO AMENDING THE ZONING ORDINANCE TO INCLUDE VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE COMMERCIAL GENERAL ZONING DISTRICT.**

F. **MOTION SETTING A PUBLIC HEARING FOR APRIL 6, 1993, RELATIVE TO REZONING 16 STERLING STREET.**

G. **MOTION SETTING A PUBLIC HEARING FOR APRIL 6, 1993, RELATIVE TO A VARIANCE FOR CENTRAL METHODIST CHURCH GROUP DEVELOPMENT**

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION SETTING A PUBLIC HEARING FOR APRIL 27, 1993, RELATIVE TO ADOPTION OF THE MINIMUM HOUSING CODE

Councilman Moore moved to set a public hearing on April 27, 1993, relative to adoption of the Minimum Housing Code. This motion was seconded by Councilman Worley and carried unanimously.

B. REPORT ON THE FRANCHISE FEE FROM TCI CABLE OF ASHEVILLE

City Manager Bean stated that the City has received the franchise fee payment from TCI Cable for the period July 1, 1992, through December 31, 1992, in the amount of $128,952.51.

C. REQUEST FOR DIFFERENT MEETING DATES AND TIMES SO AS NOT TO CONFLICT WITH THE BUNCOMBE COUNTY COMMISSIONERS MEETING DATES AND TIMES

Ms. Leni Sitnick urged the City Council to establish a schedule with the Buncombe County Board of Commissioners in order that the public can attend both the City Council meeting and the Board of Commissioners' meeting. As it is now, she states that both governing bodies meet at the same time on the same day. She also suggested a night meeting monthly.

D. CONCERNS REGARDING ASHEVILLE POLICE DEPARTMENT SHIFTS

Police Officer Alan O'Donnell read a prepared statement relative to concerns the police officers had regarding the shift schedule change which will go into effect on March 29, 1993. He felt that the change will adversely affect the patrolman's ability to provide the level of service citizens now receive. He used charts to illustrate the concerns.

Vice-Mayor Ellison asked that the City Manager investigate the officers' concerns and report back to the Council next week during Pre-Council.

E. COMMENTS RELATIVE TO MONTFORD AREA

Frank and Patricia Johnson voiced concern over the lack of law enforcement activities in the Montford area. He summarized some problems that have been occurring since November of 1992.

Vice-Mayor Ellison urged the Johnsons to meet with the City Manager to address their concerns.

F. GROUP DEVELOPMENT

Ms. Mary Weber said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following action was taken by the Planning and Zoning Commission on March 3, 1993:

SAM'S CLUB

Ms. Weber said that this group development request is for a 124,000 square-foot retail building at Patton Avenue and Regent Park Boulevard. The site is zoned Commercial-Highway and all adjacent areas are also zoned CH. Access will be from Regent Park Boulevard and off of the Hanover Interchange. The 23-acre site has a stream and an one acre wetland. The project will not impact the wetland but the stream will be directed into two culverts so that part of the parking lot can be located over the stream. The developer was scheduled on the March 15th Board of Adjustment agenda to obtain a permit for building in the floodway.

The project meets all requirements of the Asheville Zoning Ordinance and was approved by the Planning and Zoning Commission at their March 3, 1993, meeting with four conditions:

1. Obtain permit from Board of Adjustment to build portions of the parking lot in the floodway.

2. Obtain approval from the North Carolina Department of Transportation to use the Hanover Interchange as an access.

3. Meet the Public Works Department's requirements regarding the drainage pipes and culvert design, and submit all additional information that has been requested. Also, the developer must agree to have a registered engineer inspect the inside of the culverts at least once a year.

4. Continue to work with staff on final approval of parking lot design.

Councilwoman Field commented on the large number of parking spaces the project will have.

Upon inquiry of Councilman Moore's concern about the developer having a registered engineer inspect the inside of the culverts at least once a year, City Attorney Slawter stated that there is a process in place with the Planning and Public Works Departments that these inspections occur.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. CLAIMS

City Manager Bean said the following claims were received by the City during the week of March 1-5, 1993: R.A. Riddle (Water); John Wabich (Streets); and Ronald Aguiar (Inspections).

He said that the following claims were received during the week of 8-12, 1993: Tracy Monk Durland (Parks); Mark Hensley (Sanitation); and Scott Haynes (Water).

He also said that the following claims were received during the week of March 15-19, 1993: Robert Lee Jones (Streets); Dennis Morgan (Streets); and Tomi McKenzie (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 4:55 p.m.

Marian S. Moretti, Jr.
CITY CLERK

W. M. Nicholson
MAYOR

BID SUMMARY — CITY OF ASHEVILLE — BID OPENED: MARCH 1, 1993 - 3:00 P.M.

BID REQUEST NO. 411-93 — ANNUAL CONTRACT FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)

ASHEVILLE DIVISION APAC-CAROLINA, INC.

	UNIT PRICE	AMOUNT	DELIVERY	TERMS	BID DEPOSIT
SECTION I - STREET SURFACE PROGRAM 5000 Tons Bituminous Concrete Surface Course - Type I-2	$25.00/ton	$125,000.00	Our Pick Up	Net 30	
SECTION II - PAVEMENT & PATCHING PROGRAM - 1550 Tons Bituminous Concrete Materials - Type HB, Type F-I, Type II, Type I-1, and Type I-2		$38,800.00	Our Pick Up	Net 30	5% Bid Bond
TOTAL BID		$163,800.00			

Exhibit "A"

Tuesday - March 30, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-40 - RESOLUTION OF THANKS TO INDIVIDUALS, AGENCIES AND ORGANIZATIONS THAT ASSISTED THE CITY OF ASHEVILLE IN ITS EMERGENCY RESPONSE TO THE BLIZZARD OF 1993

Mayor Michalove read the resolution expressing the City of Asheville's most heartfelt thanks to all agencies, individuals and organizations for the invaluable assistance rendered during and immediately after the blizzard of 1993.

He presented Certificates of Appreciation to the North Carolina National Guard, United Way, Manna Food Bank, ABCCM, NC Department of Environment, Health & Natural Resources, MSD, Salvation Army, Communication Service Inc., David Branson, William Cecil Jr., Kenneth Allen (Paving Enterprises), American Red Cross, Mae Bessie Ellison, Beaverdam Division of the Reems Creek Fire Department, Buncombe County, Willie and Sherlyn Allen, Bill Sturgis (Suburban Propane), Jeffrey Gillespie (Suburban Propane), Ramada Inn, Charles Livengood, Jane Knisely, Roger Roberts, Rick Shepard, Mark Hobbs, Lauren Scott, Chip Bacarisse, Jeff Ray, Doug Watson, Steve McHenry, John Putnam, Tim Robinson, Steve Madden, Chris Reynolds, WSKY Radio, WCQS Radio, WLOS-TV, WYFF-TV, WSPA-TV, WWNC and WKSF and the Asheville Citizen-Times.

Resolution No. 93-40 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 105

B. PROCLAMATION PROCLAIMING THE MONTH OF APRIL, 1993, AS "ALCOHOL AWARENESS MONTH"

Mayor Michalove proclaimed the month of April, 1993, as "Alcohol Awareness Month" in the City of Asheville and presented the proclamation to representatives of the Buncombe County Drug Commission, who gave a brief summary of activities which will take place during the month.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 5-11, 1993, AS "COMMUNITY DEVELOPMENT WEEK"

Mayor Michalove proclaimed the week of April 5-11, 1993, as "Community Development Week" in the City of Asheville and presented the proclamation to Community Development Director Marvin Vierra, who gave a summary of activities which will take place during the week.

At this time Mayor Michalove changed the order of items in order to accommodate the large number of people in audience.

UNFINISHED BUSINESS:

THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 10 SUNSET SUMMIT

Mayor Michalove explained that this action was postponed from the January 19, 1993, meeting in order to see what action the Board of Adjustment would take with regard to the appeal filed by the surrounding property owners.

City Attorney Slawter said that on March 1, 1993, the Board of Adjustment heard the appeal filed by the surrounding property owners which stayed the permits. He said that on that date, the Board denied the appeal. He said the appellants have indicated that they would appeal the Board's decision, but to date the decision has not been signed and issued. He suggested the Council postpone taking action on this matter until the decision is signed and the 30 day time period, within which the surrounding property owners have to appeal the decision, has elapsed.

Councilwoman Field moved to postpone action on this matter until May 11, 1993. This motion was seconded by Councilman Moore and carried unanimously.

City Attorney Slawter said that he would prepare a report updating the Council on this matter prior to May 11, 1993.

NEW BUSINESS:

RESOLUTION ADOPTING A SMALL AREA PLAN KNOWN AS THE HENDERSONVILLE ROAD CORRIDOR PLAN AS AN ADDENDUM TO THE COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE (ASHEVILLE CITY PLAN 2010)

Vice-Mayor Ellison moved to set a public hearing on this matter for May 11, 1993, in order to give Council members time to tour the area. This motion was seconded by Councilman Moore and carried unanimously.

PUBLIC HEARING:

CONTINUATION OF A PUBLIC HEARING TO AMEND ZONING OF 570-582 HENDERSONVILLE ROAD

Mayor Michalove stated that the public hearing on this matter was opened on January 5, 1993, and continued until this date in order to give the Council the benefit of the Hendersonville Road Corridor Study.

Because the Council will be touring the Hendersonville Road Corridor Plan area and holding a public hearing on that matter until May 11, Councilman Moore moved to continue this public hearing, without further advertisement, until May 11, 1993. This motion was seconded by Councilwoman Field and carried on a 4-3 vote, with Councilmen Peterson, Swicegood and Worley voting "no."

Councilmen Swicegood and Worley opposed the continuance because he felt that it has been Council's policy not to continually postpone a request such as this.

UNFINISHED BUSINESS:

DISCUSSION RELATIVE TO OVERLOOK POINTE BI-LO GROUP DEVELOPMENT

Mayor Michalove said that the public hearing on this matter was held on March 2, 1993, at which time a motion was made to postpone any action on this matter in order to give the City an opportunity to review the engineering studies of the developer and Crowfields.

Mr. Jim Ewing, Director of Public Works, said that he has reviewed the reports by the developer and the homeowners group and feels that the reports essentially say the same thing, but are couched in different language. He went on to read his report as follows:

"Both the developer and the homeowners association showed a post development storm of 10 Yr 24 Hrs duration. The rain event chosen is a minimum event to consider for storm water quantity control.

"Under this event and the runoff controls as proposed for this project, the Bi-Lo site will create no more run off into Dingle Creek than under predevelopment conditions. Unfortunately, any event grater (sic) than the 10 Yr 24 Hr event will not be curtailed. This will result in the design year storm runoff being held in the basin and all the remaining will top the reservoir and run into Dingle Creek. The present design calls for the overflow to run down the ditch line of Overlook Road until it reached Pebble Creek. This is a possibility, however, there needs to be some work done on the ditch line as it has been filled in adjacent to Deer Run. Because this is a very small portion of the drainage basin, the immediate impact will probably be negligible.

"To further compound the problem, the 10 year storm can be calculated in an infinite combination of intensities and durations. The Storm event is defined as a quantity of water impacting the drainage basin rather than either an intensity or a duration. For example, if a 10 year event is defined as 100 Inches this can be achieved if a storm has an intensity if .1 IPM for 1000 Minutes, or an intensity of 10 IPM for 10 minutes.

"There are two designs for a containment basin. One is a retention and the other is a retention basin. The retention basin always has water contained in to be a decorative fixture in a development. The other is a detention basin which is dry except when necessary to contain runoff during an event. In the proposed situation and location, the detention basin design is the preferred design for maintenance reasons.

"Under the current ordinances of the city, we have no ability to require that the developers have a specific design criteria for the protection of adjacent properties. This would be one of the requirements that a Storm Sewer Utility would have in the enabling ordinance.

"It appears that this design is better than one which requires no variance. The site would have the same area of impervious area, but the developer would not have as great an incentive to accommodate all the requests that we have made of him to mitigate the observable problems. In

addition to storm water problems, the location changes in the building to accommodate the site with no variance would probably result in a reduction of parking spaces. The development would still have all that is required by the zoning ordinance, but by their own admission, the resulting lot would not be sufficient during high traffic times. This would create the possibility of dangerous situations both on Hendersonville Highway and Overlook Road"

He stated that some ditching needs to be done along Overlook Road to make sure the flow from the detention basin doesn't get into the road. He also proposes a different device in order to give better protection downstream.

There was some discussion relative to the retention basin.

At the request of Mayor Michalove, City Attorney Slawter explained that if Council grants the variance, it can impose conditions upon the group development. However, if the variance is not granted, Council has no authority to place conditions on the group development, because the developer already meets all requirements of the group development section of the zoning ordinance. He explained the reasoning behind granting a variance and it was his opinion that this request did not meet the "practical difficulties or hardship with the property" standards for granting a variance.

Mr. Gerald Green, Senior Planner, summarized the recommendations of the Planning and Zoning Commission stating that the Planning and Zoning Commission approved the group development subject to the granting of a variance. He briefed the Council on the concerns Crowfields had on the group development.

Mr. Phil Carson, attorney for Hughes Development Corporation, stated that, after the public hearing by the City Council, the developers met with Crowfields' representatives and tried to negotiate their concerns. However, those negotiations have stopped because the developers have been told that those representatives of Crowfields had no authority to be negotiating. He stated that the developers have gone the extra mile to work with Crowfields. He told the Council that if the variance is denied, the developer will develop the land only based upon the original site plan which is subject only to the ordinance requirements. However, if the variance is granted, the developer will honor the various obligations made with Crowfields. He further stated that if the

granting of the variance is appealed, the developers will withdraw their request for a variance and go back to the original site plan, minus any obligations made with Crowfields.

Mr. O.E. Starnes, attorney representing Crowfields Condominiums, felt that this development did not meet the hardship criteria for the granting of a variance. He passed out to Council a list containing 10 points of concern that Crowfields property owners have expressed.

It was again confirmed that if Council grants the variance, they can impose conditions upon the developer. If the variance is denied, the Council can impose no conditions upon the developer.

Councilman Moore felt that since the granting of a variance is to relieve a real hardship, the developer cannot show to his satisfaction that this variance request meets the hardship requirements, thus he will vote against the granting of a variance.

Councilman Swicegood felt that the developers have tried to work with Crowfields on their concerns and felt that some concerns were not realistic, thus he will vote for the granting of a variance.

Councilman Peterson moved to approve the site plan including the variance subject to the buffering requirements and the installation of the detention basin at the rear end of the project. This motion was seconded by Councilman Swicegood.

Councilman Worley stated that he would vote for the variance request because he felt the community needs as much protection as possible and if the Council does not grant the variance, that protection cannot be obtained.

Vice-Mayor Ellison felt that the granting of the variance will be for the best interest of the neighborhood and thus, will vote for it.

Mr. Starnes stated that if the Council grants the variance, he requests that they place various conditions upon the developer. Mr. Carson stated that he would be happy to negotiate some conditions.

At this time, Mayor Michalove asked that the two parties involved and the representatives of the Planning

Department meet in the Council Conference Room to work out any details and come back to the meeting with definite conditions that could be enforced by the Planning Department.

Approximately 25 minutes later, the parties emerged and the following motion was agreed upon by the developers, the Crowfields representatives and the Planning staff:

Councilman Peterson moved to amend his prior motion to read that the site plan (including the 7.5 foot variance) dated March 30, 1993, (and initialed by representatives of Hughes Development Corporation and Crowfields Condominiums) be approved with the following conditions:

A. Drainage to be piped to creek at the nearest practical point as mutually agreed upon by the parties involved;

B. An engineering study to be conducted to determine a method of modifying the parking lot slope for the purpose of creating a water collection basin at the mouth of the drainage pipe at the northeast corner of the lot to limit runoff entering the driveway;

C. Buffering at the northwest corner of the building to be as submitted on initialed revision to landscape plans;

D. Wall to be dark colored and textured (color selected by developer's architect to reduce visual impact or mutually agreed upon);

E. Lights to be baffled and low glare; and

F. Debris collectors at inlets of drainage outlet pipes.

Councilman Swicegood then seconded Councilman Peterson's amended motion. This motion carried on a 6-1 vote, with Councilman Moore voting "no."

Mr. Carson again confirmed to the Council that if the variance is appealed to Superior Court, the developers will withdraw their request for a variance and go back to the original site plan, minus any obligations made with Crowfields.

PUBLIC HEARINGS:

PUBLIC HEARING TO CLOSE AN UNNAMED ALLEY RUNNING WEST OFF PEARL STREET

RESOLUTION NO. 93-41 - RESOLUTION TO CLOSE AN UNNAMED 12 FOOT ALLEY RUNNING WEST OFF PEARL STREET IN THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 5:53 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from Victor C. Shealy Jr. and Patricia Shealy requesting the unnamed alley running west off Pearl Street be closed. The Shealys, and a partnership which they own, are the only property owners who have property which adjoins the alley. The closing would not deny access to any individual property owner.

Mayor Michalove closed the public hearing at 5:55 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-41. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 106

PUBLIC HEARING TO CLOSE A PORTION OF LENOX COURT

RESOLUTION NO. 93-42 - RESOLUTION TO CLOSE A PORTION OF LENOX COURT

Mayor Michalove opened the public hearing at 5:56 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from the Jewish Community Center of Asheville to close a portion of Lenox Court. All property adjoining this portion of Lenox Court is under the ownership of the Jewish Community Center of Asheville. No property owners in the area would be denied reasonable means of egress and ingress to their property.

He said there would be a slight decrease in Powell Bill revenue mileage resulting in a reduction of only $18.30 in funds. The maintenance cost reductions would equate to approximately $24.00 per year. There would be no increase in property taxes due to the Jewish Community Center being tax exempt.

Mr. Bruce Boyd, property owner in the area, stated some concerns about parking on Lenox Court and the type of buffering after the renovations are completed.

Mr. Gary Friedman, attorney, stated that the Jewish Community Center has no plans to change the traffic flow on Lenox Court and that after the renovations are done, it should alleviate some of the on-street parking on Lenox Court. He said that they have landscape architects currently working on the buffering for the area.

Mayor Michalove closed the public hearing at 6:02 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-42. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 108

PUBLIC HEARING TO CLOSE A PORTION OF A 10' ALLEY LOCATED BETWEEN LENOX COURT AND MURDOCK AVENUE

RESOLUTION NO. 93-43 - RESOLUTION TO CLOSE A PORTION OF A 10' ALLEY LOCATED BETWEEN LENOX COURT AND MURDOCK AVENUE

Mayor Michalove opened the public hearing at 6:03 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Director of Public Works, stated that a petition has been received from the Jewish Community Center of Asheville requesting that a portion of a 10' alley between Lenox Court and Murdock Avenue be closed. The closing of this portion of the 10' alley would not deny reasonable means of egress and ingress to any property owner.

He said the alley is not maintained by the City of Asheville so there would be no effect upon Powell Bill revenues or maintenance cost. The property added to private ownership would not increase ad valorem taxes due to the fact that the Jewish Community Center is a tax exempt organization.

Mayor Michalove closed the public hearing at 6:06 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-43. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 110

PUBLIC HEARING RELATIVE TO THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 42 ROBERTS STREET

ORDINANCE NO. 2017 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 42 ROBERTS STREET

Mayor Michalove opened the public hearing at 6:05 p.m. He stated that the public hearing for demolition of 67 Mt. Clare Avenue and 16 Clyde Street will also be opened at this time. Those other two items follow this item.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing relative to the demolition of 42 Roberts Street.

Mr. Bob Hixson, Director of Inspections, said that on January 14, 1992, and February 10, 1992, the Inspection Division inspected 42 Roberts Street and found it was unfit for human habitation. Inspections revealed that (1) north and west walls are damaged and structurally unsound, (2) first and second floors are damaged and structurally unsound, (3) there is no water nor electricity, (4) structure is being occupied by vagrants and is badly deteriorated and, (5) structure is a danger and hazard to the general public.

Mayor Michalove closed the public hearing at 6:10 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2017. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2017 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 2017. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2017 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2017. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2017 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 202

PUBLIC HEARING RELATIVE TO THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE

ORDINANCE NO. 2018 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE

Mayor Michalove opened the public hearing at 6:05 p.m., at the same time the public hearing was opened for the demolition of 42 Roberts Street and 16 Clyde Street.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing relative to the demolition of 67 Mt. Clare Avenue.

Mr. Bob Hixson, Director of Inspections, said that on February 17, 1992, the Inspection Division inspected 67 Mt. Clare and found it was unfit for human habitation. Inspection revealed that the piers and supports are damaged, the plumbing system is inoperable, there is no electricity or heat, the building is unsecured and needs paint, the structure has broken windows, the sills and jambs are rotted, the roof and floors are badly damaged, the landing to upstairs unit completely is rotted out, the lot is overgrown and littered, unsanitary, unfit for human habitation and dangerous to the general public.

City Attorney Slawter stated that his office has received word that some heirs to this property have some concerns over the demolition of this structure. Vice-Mayor Ellison instructed the City Attorney to notify the heirs that Council will be taking final action on this matter on April 6, 1993.

Mayor Michalove closed the public hearing at 6:10 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2018. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2018 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 2018. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2018 passed on its second reading.

PUBLIC HEARING RELATIVE TO THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 16 CLYDE STREET

ORDINANCE NO. 2019 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 16 CLYDE STREET

Mayor Michalove opened the public hearing at 6:05 p.m., at the same time the public hearing was opened for the demolition of 42 Roberts Street and 67 Mt. Clare Avenue.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing relative to the demolition of 16 Clyde Street.

Mr. Bob Hixson, Director of Inspections, said that on June 4, 1991, the Inspection Division inspected 16 Clyde Street and found it was unfit for human habitation. Inspection revealed that the roof and floor structures are extensively damaged by fire; the rear foundation is removed as well as wall foundations are being undermined; there is insufficient plumbing, heating and electrical systems; the dwelling is structurally unsound and dangerous to the general public. This structure could collapse at any time.

Mayor Michalove closed the public hearing at 6:10 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2019. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2019 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 2019. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2019 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2019. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2019 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 206

UNFINISHED BUSINESS:

RESOLUTION DIRECTING THE KITCHEN PLACE PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT AT ITS WESTERN END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Vice-Mayor Ellison moved to postpone action on these matters until April 6, 1993. This motion was seconded by Councilman Worley and carried unanimously.

NEW BUSINESS:

RESOLUTION NO. 93-44 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN OPTION AGREEMENT WITH THE STATE OF NORTH CAROLINA RELATED TO PROPERTY ADJACENT TO THE AGRICULTURAL CENTER

City Attorney Slawter said that the City owns a tract of land adjacent to the Agricultural Center on Airport Road which tract consists of approximately 15.65 acres. He said 7.45 acres of that tract is the subject of a condemnation proceeding by the N.C. Department of Transportation ("NC DOT") for the purpose of facilitating highway improvements within the area. The N.C. Department of Agriculture has made an offer for the remaining 8.2 acres at a purchase price of $27,500 per acre. The transaction cannot be finalized until it is approved by the Federal Aviation Administration ("FAA") and the N.C. Department of Agriculture has requested that the City enter into an option agreement so as to facilitate the commitment of State funds for that purchase pending approval by the FAA. This resolution will authorize the Mayor to execute that option agreement providing for the sale to the State of North Carolina of an 8.2 acre tract of land for the sum of $225,000, subject to the approval of the FAA.

He said that the purchase price offered by NC DOT and the N.C. Department of Agriculture together for the entire tract of 15.65 acres is $461,372. Bill Duckworth and Max Swicegood appraised the property in 1989 at $410,300. Tom Steitler appraised the property in 1991 at $406,900.

Upon inquiry of Councilman Peterson, City Manager Bean said that 50% of the $225,000 will go to the Airport and 50% will go into the City's capital account.

Mayor Michalove said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-44. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 112

RESOLUTION NO. 93-45 - RESOLUTION ESTABLISHING THE BELE CHERE COMMISSION

City Manager Bean said that since the Bele Chere Festival was created in 1979, it has been extremely

successful and continues to generate millions of dollars for the community, create a positive image for the City of Asheville and remains a source of great pleasure for many thousands annually. He said the Bele Chere Festival has previously been operated by a public/private partnership between the City of Asheville and an independent board. He said that because the City of Asheville maintains ultimate responsibility and legal liability for activities conducted in conjunction with the Bele Chere Festival, the Council desires to establish the Bele Chere Commission charged with responsibilities for conducting the Bele Chere Festival in order that the City of Asheville maintain more direct control over the activities of the Festival.

He then set out the following criteria establishing the Bele Chere Commission:

1. There is hereby established the Bele Chere Commission, said Commission consisting of sixteen (16) members appointed by the Asheville City Council to serve as follows:

   a. Fourteen (14) members shall be the most recent past Festival chairmen;

   b. Two (2) members shall be appointed by the City Council and serve a term of two (2) years;

   c. Each year the most recent Festival chairman shall become a member of the Commission and the member from the Festival longest past shall have their term expire;

   d. The Chairman of the Commission must have served as a Festival chairman and shall be elected from among its membership to serve a one (1) year term.

2. The Bele Chere Commission shall be charged with the following duties:

   a. Revise and adopt the Strategic Plan, following input from the City Council, Board of Directors and community;

   b. Advocate for the community's interest concerning the Festival;

   c. Build community support for Bele Chere, other festivals and Downtown;

d. Serve as a resource to Festival Board and staff;

e. Recommend an appropriate level of reserve funds and use of any additional surplus funds;

f. Recruit and appoint a Festival Chairman and Chairman-elect; and

g. Organize committees as they so choose and appoint appropriate leadership.

3. The Bele Chere Commission shall meet at least four (4) times a year, and one of those meetings shall be a joint worksession with City Council in September of each year to review a preliminary report on the Festival.

4. A final financial report for each Festival will be provided to the City Council by November 1 of each year.

Mayor Michalove thanked Vice-Mayor Ellison and Councilman Worley for working with the Bele Chere Board of Trustees in arriving at this new Commission.

Mayor Michalove said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-45. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 115

BIDS RELATIVE TO OFFICE FURNITURE AND WORKSTATIONS FOR THE PUBLIC WORKS COMPLEX

City Manager Bean said the City recommends award of bid to Office Environments, Asheville, North Carolina, in the amount of $80,219.68; Contren, Charlotte, North Carolina, in the amount of $20,011.42; and Hoyle Office Supply, Asheville, North Carolina, in the amount of $23,707.90. These bids fully meet all specifications, terms and conditions of subject bid. A complete bid summary is attached hereto and made a part hereof as Exhibit "A".

Upon inquiry of Councilman Peterson, Associate City Manager/City Clerk Wolcott said that the Public Works

Complex is within its budget. He said that in addition to the new furniture being bought, the City is going to be putting old furniture that has been repainted and reupholstered into the new building.

At the request of Councilman Swicegood, Mr. Norwood Dunn, City Purchasing Agent, and Mr. John Legerton, Design Architect, explained that they were recommending awarding the bid in group 7 to the second lowest bidder because Workspaces Inc. (lowest bidder) did not meet the specifications. Workspaces Inc. did not include filler panels and strips as required for complete installation.

Mr. Dunn said that the prices were better than state contract because of the size of the bid.

Councilman Moore moved to excuse Councilwoman Field due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Moore moved to award the bids to Office Environments, Asheville, North Carolina, in the amount of $80,219.68; Contren, Charlotte, North Carolina, in the amount of $20,011.42; and Hoyle Office Supply, Asheville, North Carolina, in the amount of $23,707.90. This motion was seconded by Councilman Worley and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no."

ORDINANCE NO. 2020 - BUDGET ORDINANCE AMENDMENT RELATIVE TO THE FLEET MANAGEMENT SERVICE STATION

City Manager Bean said that the design and construction of the Fleet Management Service Station was approved in 1991. During removal of old fuel tanks, soil contamination was found. Following EPA and State Environmental regulations caused additional planning by the architect, extensive costly soil testing, and removal and disposition of contaminated soil. These unexpected costs caused an overrun of approximately $33,000 over budget authority. In addition, the necessity of providing a weather shelter for drivers while using the Gas Boy Key Stand has become apparent. Landscaping to the minimum City standards is also required. This budget amendment ordinance provides for an additional $50,000 loan from the 20 Fund as part of planned CIP loans.

Mayor Michalove said members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2020. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 7-0, Ordinance No. 2020 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 208

CONSENT AGENDA:

A. APPROVAL OF THE REGULAR MEETING HELD ON MARCH 23, 1993.

B. MOTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO SELL ONE DISPOSAL PARCEL IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT.

Summary: Disposal Parcel #4 is located at 125 Cherry Street and consists of a 1,956 sq. ft. two-story house on a 8,050 sq. ft. lot. The house is structurally sound but badly in need of rehabilitation. The appraisal value of the property is $21,500. The proposed redeveloper is Bonnie View, Inc., a North Carolina corporation, and their bid amount is $21,500. No upset bids have been received.

Redevelopment of the property includes rehabilitating the structure and converting it to office space on the first floor and a two bedroom apartment on the second floor. The estimated cost of rehabilitation is $65,000.

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said the following claims were received by the City during the week of March 22-26, 1993: Hope Crowder (Water); Suzanne Huntley (Streets), Jerry Harper (Streets); Sarah Johnson (Parks); Ruth Marshall (Streets); James Ballard (Water); and Andy Hutchinson (Sanitation).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:48 p.m.

William S. Wolcott, Jr. — CITY CLERK

W. M. Michalove — MAYOR

BID SUMMARY
BID REQUEST NO. 409-93

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, FEBRUARY 26, 1993 3:00 P.M.

OFFICE FURNITURE AND WORKSTATIONS FOR THE PUBLIC WORKS COMPLEX

	OFFICE ENVIRONMENTS ASHEVILLE, NC	CONTREN CHARLOTTE, NC	WORKSPACES, INC. GREENVILLE, SC	HOYLE OFFICE SPLY. ASHEVILLE, NC	MACTHRIFT OFFICE FURN. WINSTON-SALEM, NC	B.D. INTERIORS ASHEVILLE, NC
BID GROUP 1 BOOKCASES	$ 1,486.62	$ 1,559.71	$ 1,692.00	$ 1,659.10	$ 1,992.00	NO BID
BID GROUP 2 CHAIRS	$31,697.34	$36,770.07	$36,300.00	$34,334.50	$34,007.00	NO BID
BID GROUP 3 DESKS AND CREDENZAS	$14,564.72	$17,241.56	$17,741.00	$15,698.65	$15,284.00	NO BID
BID GROUP 4 FILES	$12,920.08	$14,504.58	$14,558.00	$15,527.80	$14,432.00	NO BID
BID GROUP 5 MISCELLANEOUS	$20,602.71	$20,011.42	$23,070.00	$22,434.40	$23,043.00	NO BID
BID GROUP 6 TABLES	$22,268.34	$24,123.90	$25,704.00	$23,707.90	$24,862.00	$30,920.47
BID GROUP 7 WORKSTATIONS	$19,550.92	$21,034.24	$16,950.00	$22,978.24	$20,234.00	NO BID
BID DEPOSIT:	CHECK	BID BOND	CHECK	OFFICIAL CHECK	BID BOND	CASHIER'S CHECK

PAYMENT TERMS AND DELIVERY PER BID SPECIFICATIONS.

THE ATTACHED EXHIBIT 'A' PROVIDES A BRIEF DESCRIPTION OF ITEMS INCLUDED IN EACH BID GROUP.

"Exhibit A"

BID REQUEST NO. 409-93
BID SUMMARY
EXHIBIT A

BID GROUP 1: BOOKCASES
2 METAL BOOKCASES - BID ITEM B1
2 METAL SHELVING - BID ITEM B2
4 WOOD BOOKCASES - BID ITEM B3

BID GROUP 2: CHAIRS
4 LOUNGE CHAIRS - BID ITEM C1
7 DESK CHAIR W/O ARMS - BID ITEM C2
17 DESK CHAIRS W/ARMS - BID ITEM C3
25 SIDE CHAIRS - BID ITEM C4
108 STACK CHAIRS - BID ITEM C6
14 STOOLS - BID ITEM C7
18 CONFERENCE CHAIRS - BID ITEM C9
12 SIDE CHAIRS - BID ITEM C10
4 DESK CHAIRS - BID ITEM C11
3 DESK CHAIRS - BID ITEM C12

BID GROUP 3: DESKS & CREDENZAS
1 WOOD CREDENZA - BID ITEM CR1
1 METAL CREDENZA - BID ITEM CR2
3 WOOD CREDENZAS - BID ITEM CR3
2 DESK TABLES - BID ITEM D1
9 DESKS - BID ITEM D2
9 RETURNS - BID ITEM D3
2 DESKS - BID ITEM D4
3 WOOD DESKS - BID ITEM D5
3 WOOD RETURNS - BID ITEM D6

BID GROUP 4: FILES
10 LATERAL FILES - BID ITEM F1
2 LATERAL FILES - BID ITEM F2
6 LATERAL FILES - BID ITEM F3
8 LATERAL FILES - BID ITEM F4
8 VERTICAL FILES - BID ITEM F5
12 VERTICAL FILES - BID ITEM F6

BID GROUP 5: MISCELLANEOUS
2 FLAT FILES - BID ITEM M1
6 PLANTERS - BID ITEM M2
3 TRASH RECEPTACLES - BID ITEM M3
2 LECTURNS - BID ITEM M4
186 LOCKERS - BID ITEM M5
4 BENCHES - BID ITEM M6
4 BENCHES - BID ITEM M7
4 HANG FILES - BID ITEM M8

BID GROUP 6: TABLES

3 DINING TABLES - BID ITEM T1
32 TRAINING TABLES - BID ITEM T2
4 WORK TABLES - BID ITEM T3
4 WORK TABLES - BID ITEM T4
1 CUBE TABLE - BID ITEM T5
1 CONFERENCE TABLE - BID ITEM T6
1 CONFERENCE TABLE - BID ITEM T7
4 CONFERENCE TABLES - BID ITEM T8
13 DRAFTING TABLES - BID ITEM T9
1 CONFERENCE TABLE - BID ITEM T10
2 WORK TABLES - BID ITEM T11
1 ROUND TABLE - BIT ITEM T12
2 CONFERENCE TABLES - BID ITEM T13
2 WORK TABLES - BID ITEM T14

BID GROUP 7: WORKSTATIONS

4 PEDESTALS - BID ITEM WF1
1 FILE - BID ITEM WF2
1 WARDROBE - BID ITEM WM1
7 STORAGE UNITS - BID ITEM WM2
1 WARDROBE - BID ITEM WM3
4 NON-POWERED PANELS - BID ITEM WP1
5 PWOERED PANELS - BID ITEM WP2
8 POWERED PANELS - BID ITEM WP3
13 POWERED PANELS - BID ITEM WP4
2 NON-POWERED PANELS - BID ITEM WP5
6 POWERED PANELS - BID ITEM WP6
3 POWERED PANELS - BID ITEM WP7
2 POWERED PANELS - BID ITEM WP8
1 POWERED PANEL - BID ITEM WP9
1 WORK TOP - BID ITEM WT1
2 WORK TOPS - BID ITEM WT2
3 WORK TOPS - BID ITEM WT3
1 WORK TOP - BID ITEM WT4
1 WORK TOP - BID ITEM WT5
2 WORK TOPS - BID ITEM WT6
3 WORK TOPS - BID ITEM WT7
4 WORK TOPS - BID ITEM WT8
1 WORK TOP - BID ITEM WT9
1 WORK TOP - BID ITEM WT10
2 WORK TOPS - BID ITEM WT11
2 WORK TOPS - BID ITEM WT12

Tuesday - April 6, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; Assistant City Attorney Patsy Brison; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore (out of town) and City Attorney William F. Slawter (out of town)

INVOCATION

Vice-Mayor Gene Ellison gave the invocation.

I. PROCLAMATIONS:

A. CERTIFICATE OF APPRECIATION TO CAROLINA POWER & LIGHT COMPANY FOR ASSISTING THE CITY OF ASHEVILLE IN ITS EMERGENCY RESPONSE TO THE BLIZZARD OF 1993

Mayor Michalove presented Gary Ashburn and Kevin Butler with a certificate of appreciation expressing the City of Asheville's most heartfelt thanks to Carolina Power & Light Company for the invaluable assistance rendered during and immediately after the blizzard of 1993.

B. METRO SCHOOL

District Court Judge Rebecca Knight and Mr. Bill Sanowskis from the Juvenile Court, made a presentation to the City Council about the METRO School proposal. They explained that the school systems that serve Asheville and Buncombe County are generally unable to serve the educational needs of certain students who are found to be carrying weapons on school grounds. Due to the serious nature of such an offense the past pattern has typically involved suspension of the student from school for the remainder of the school year, regardless of when the incident occurs. Unfortunately, this leaves the juvenile "on the streets". Many times these children are first-time offenders and carry the weapons to school for what they believe is self-defense. Regardless of 1st or 10th offense, possession of any weapon on school property for any reason is not tolerable.

They explained the METRO School will be an alternative educational program that consists of a community service and

an educational component. The maximum enrollment in the METRO School will be 8 students and acceptance will be part of a probationary sentence pursuant to a delinquency adjudication from Juvenile Court. Participation and compliance will be court ordered.

They said the formal school will be in the afternoon hours at an appropriate placement such as the Optional School. The morning segment will consist of community service. Hopefully, the community service will be performed in offices of City and County government and the Board of Education. Students shall wear appropriate business attire and be available to perform a variety of tasks such as answering the telephone, delivering materials to different offices, making photocopies, filing, etc. It is anticipated these individuals will contribute valuable service as well as observe quality role models performing public service functions in employment situations.

They asked the Council to support this program with the hope that a successful program will encourage private business and industry to accept students in the future.

It was the consensus of Council that a letter of endorsement be given to the METRO School Program.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO INCLUDE VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE COMMERCIAL GENERAL ZONING DISTRICT AND SET FORTH CONDITIONS**

ORDINANCE NO. 2021 - ORDINANCE AMENDING CHAPTER 30 TO INCLUDE VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE COMMERCIAL GENERAL ZONING DISTRICT AND TO SET FORTH CONDITIONS

Mayor Michalove opened the public hearing at 4:44 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that veterinary hospitals and clinics with specific conditions would become an allowed conditional use in the Commercial General Zoning District. She said veterinary hospitals and clinics were now allowed as a conditional use in the Commercial Highway zoning district, and this ordinance would st forth the conditions required.

Mayor Michalove closed the public hearing at 4:47 p.m.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2021. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2021. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2021. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2021 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 210

B. PUBLIC HEARING RELATIVE TO REZONING 16 STERLING STREET FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2022 - ORDINANCE AMENDING ZONING OF PROPERTY LOCATED AT 16 STERLING STREET

Mayor Michalove opened the public hearing at 4:48 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that this request is in conformance with the 2010 Plan and the property is contiguous to other property zoned Office Institutional. She said new office development on Sterling Street reflects the change in appearance and zoning now established in this area. She said the Planning and Zoning Commission, at its March 3, 1993, meeting, reviewed and recommended approval of this rezoning.

Mayor Michalove closed the public hearing at 4:51 p.m.

Mayor Michalove stated that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2022. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2022 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2022. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2022 passed on its second reading.

C. PUBLIC HEARING RELATIVE TO A VARIANCE FOR CENTRAL METHODIST CHURCH GROUP DEVELOPMENT

Mayor Michalove opened the public hearing at 4:52 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that the Central United Methodist Church is proposing the construction of a 5,050 square foot addition and the renovation of 21,350 square feet of the existing church. The site is located at 27 Church Street and is within the Central Business Zoning District. While the availability of adequate water and sanitary sewer services has been documented, the Fire Department has expressed concern about the availability of fire protection to the site. Although the North Carolina State Fire Code does not prohibit the project, the Fire Department has stated that the lack of nearby fire hydrants could cause difficulty in providing adequate fire protection to the existing building and the proposed addition.

The Church is requesting a variance of the street tree and planting strip requirements along Second Street and the alley abutting the north property line. Second Street extends to the church property from Buncombe Street and serves as the driveway to the adjacent parking areas. The alley along the north property line also serves as access to adjacent parking areas. With the exception of the variance request, the proposed addition/renovation meets or exceeds the requirements of the Asheville zoning ordinance.

At their March 3, 1993, meeting, the Planning and Zoning Commission voted to recommend approval of the site plan and the request for a variance.

Upon inquiry of Vice-Mayor Ellison about whether or not the Asheville Tree/Greenway Commission has approved this request for a variance, Assistant City Attorney Brison said that it has been the practice that a staff report from the Planning Department to be made at each Tree/Greenway Commission meeting apprising them of upcoming group developments. At that time, they would have an opportunity to comment.

Upon inquiry of Councilwoman Field about the lack of adequate fire protection in the area, Mr. Nicholson stated that the State Fire Code does not prohibit the project. He said the Water Department is aware of the inadequate pressure in the entire area and it is his understanding that the Water Department has this area on its Master Plan for upgrading water services.

Mayor Michalove closed the public hearing at 5:00 p.m.

Vice-Mayor Ellison moved to approve the site plan and approve the variance, subject to the variance being reviewed and approved by the Asheville Tree/Greenway Commission. This motion was seconded by Councilman Peterson and carried unanimously.

III. UNFINISHED BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 2018 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE AVENUE**

Councilman Worley moved to postpone the third and final reading of Ordinance No. 2018 until April 27, 1993. This motion was seconded by Councilwoman Field and carried unanimously.

IV. NEW BUSINESS:

A. **RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 13) TO APAC-CAROLINA INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO**

Mayor Michalove stated that this item was deleted from the agenda.

B. **RESOLUTION NO. 93-46 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE CITY FINANCE DIRECTOR TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF THE CITY'S PROPOSED BOND FINANCING AND TO SUBMIT SUCH APPLICATION TO THE LOCAL GOVERNMENT COMMISSION**

City Manager Bean said that the City's general obligation bond principal will have been reduced in the amount of $2,025,000 during fiscal year 1993. The State statutes permit the issuance of general obligation bonds for two/thirds of the amount of principal reduced in the previous fiscal year. This resolution directs the Finance Director to make an application to the Local Government Commission for approval to sell two/thirds bonds for street and sidewalk improvements in the amount of $1,300,000 for fiscal year 1993/1994.

Mayor Michalove said that members of Council have received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-46. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 117

C. **RESOLUTION NO. 93-47 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, DIRECTING THE PUBLICATION OF NOTICE OF INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS**

City Manager Bean said that the prior resolution directed the Finance Director to apply to the Local Government Commission for approval of $1,300,000 Street and Sidewalk Bonds using the two/thirds rule. The public must be notified of the intention to apply. This resolution directs the publication of that notice.

Mayor Michalove said that members of Council have received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-47. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 118

D. RESOLUTION DIRECTING THE KITCHEN PLACE PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

E. - RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT AT ITS WESTERN END BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITTED PROPERTIES

Mayor Michalove said that these items were deleted from the agenda.

E. ORDINANCE NO. 2023 - ORDINANCE RELATIVE TO PARKING CAPITAL

City Manager Bean said that this budget amendment, in the amount of $125,000, is to set up the appropriation for parking capital in the 34 parking capital fund. The initial appropriations were approved in the 10 and 66 general fund.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2023. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2023 was adopted on its first and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 214

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 30, 1993.

B. MOTION SETTING A PUBLIC HEARING FOR APRIL 27, 1993, FOR PROPOSED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES.

C. MOTION SETTING A PUBLIC HEARING FOR APRIL 27, 1993, RELATIVE TO CHANGING ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE.

D. RESOLUTION NO. 93-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE AND ACCEPT A PERMANENT MAINTENANCE AGREEMENT FROM THE PROPERTY OWNER OR LESSEE OF SAM'S CLUB

Summary: In March, 1993, the Asheville City Council approved the group development project for Sam's Club to be located on Patton Avenue. On March 29, 1993, the Asheville Board of Adjustment approved the construction of a culvert on Sam's Club site which is located within the regulatory floodway district. The Board's approval, however, among other things, required Sam's to execute a permanent maintenance agreement with the City of Asheville, the terms of which must be acceptable to the City Council of the City of Asheville prior to the issuance of a building permit. This resolution will authorize the City Manager, subject to the City Attorney's approval, to approve the terms and accept the maintenance agreement from Sam's Club.

RESOLUTION BOOK NO. 20 - PAGE 119

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said the following claims were received by the City during the week of March 29 - April 2, 1993: Tops for Shoes (Streets), Bingham Heights Baptist Church (Sanitation), Libby Harpe (Parks), Henry Southworth (Streets), Jeff Cordell (Streets) and Alan O'Donnell (Police).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:10 p.m.

William S. Malcolm
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - April 27, 1993 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Chris Peterson gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 2-8, 1993, AS "MUNICIPAL CLERKS WEEK"

Mayor Michalove proclaimed the week of May 2-8, 1993, as "Municipal Clerks Week" and presented the proclamation to City Clerk William F. Wolcott, Jr., and Deputy City Clerk Maggie Burleson. He praised these two individuals for the vital services they perform and their exemplary dedication to the Asheville community.

B. PROCLAMATION PROCLAIMING MAY 1-7, 1993, AS "RESPECT FOR LAW WEEK"

Mayor Michalove proclaimed the week of May 1-7, 1993, as "Respect for Law Week" and presented the proclamation to Police Chief Gerald Beavers and Police Officer Jeanne Marple.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CHANGING ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE

RESOLUTION NO. 93-49 - RESOLUTION ELK MOUNTAIN COURT TO ELK MOUNTAIN RIDGE

Mayor Michalove opened the public hearing at 4:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gary McDaniels, Street Address Administrator, said that a petition has been received from all property owners on Elk Mountain Court to change the name of their road to Elk Mountain Ridge. The property owners feel that Elk Mountain Ridge is more indicative and appropriate for this property location, which is a ridge of Elk Mountain. He said Buncombe County representatives have confirmed that Elk Mountain Ridge will not duplicate another street name elsewhere in Buncombe County.

Mayor Michalove closed the public hearing at 4:11 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution No. 93-49. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 120

B. PUBLIC HEARING RELATIVE TO THE PROPOSED STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES

Mayor Michalove opened the public hearing at 4:12 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Marvin Vierra, Community Development Director, said that the City has received applications from agencies seeking CDBG funds for activities that benefit low and moderate income persons. The Housing and Community Development Committee has reviewed the applications and recommended funding level for Fiscal Year 1993 CDBG entitlement as follows:

Applicant	Requested	Recommended
Affordable Housing Coalition	$ 50,000	$ 20,000
A-B Community Christian Ministry	70,686	70,686
A-B Community Relations Council	14,500	14,500
Family Services Center	2,800	2,800
HACA-City Wide Rehab	598,500	320,000
HACA-Hillcrest Enrichment	30,000	30,314
HACA-Hill/Cherry St Neighborhood	384,000	225,500
HACA-HOPE-1	125,000	125,000
HACA-South Pack Square	23,000	23,000
MAGIC Gardens	16,000	-0-

Mountain Housing Opportunities	125,000	100,000
Neighborhood Housing Services	295,000	50,000
Opportunity Corporation	20,000	10,000
WNC Habitat for Humanity	200,000	175,000
HOME Project Administration		31,850
Disparity Study		38,637
C.D. Administration		154,247
Minority Business Program		71,466
C.D. Planning		30,000
Total	$1,954,486	$1,493,000

Revenue:

CDBG Entitlement	$1,481,000
Program Income	12,000
Total	$1,493,000

Ms. Roberta Greenspan, MAGIC Gardens, urged the Council to support funding for MAGIC Gardens. The funds would be used for 50 gardens this year which would produce approximately $50,000 worth of food.

Ms. Alison Arnold, Cooperative Extension Service, spoke in support of the efforts of MAGIC Gardens and hoped the Council would fund this very worthy program.

Ms. Barbara Waterhouse urged the Council to reconsider MAGIC's CDBG application and fund the program.

Mr. John Waterhouse spoke in support of funds for MAGIC Gardens.

Mr. Jim Barrett, attorney with Pisgah Legal Services, urged the Council to direct more funding for low and moderate income housing. He also supported a strong Code enforcement program.

Mr. Curtis Venable asked the Council to reallocate the $30,000 allotted for Community Development Planning and put it into inspections. He hoped the Council would continue to focus on funding for low and moderate income housing.

Mr. Rich Mathews, Executive Director of Neighborhood Housing Services, suggested that if the City is given money from the Economic Rehabilitation Bill, the Council consider using that money to provide affordable housing and jobs for low and moderate income people.

Mr. Monty Wooten, 81 Euclid Boulevard, spoke in support of MAGIC Community Gardens.

Vice-Mayor Ellison stated that he supported MAGIC Gardens but felt the federal money should be focused more on affordable housing.

Upon inquiry of Councilwoman Field, Mr. Vierra stated that all requests for CDBG money were reduced, some substantially.

Mayor Michalove closed the public hearing at 4:35 p.m.

C. PUBLIC HEARING RELATIVE TO THE NEW MINIMUM HOUSING CODE

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Hixson, Director of Building Inspections, gave a brief chronology of the actions which have occurred since 1990 when the City Council asked the City Manager to begin a review of the Asheville Minimum Housing Code. On March 23, 1993, the Fire Department/Building Inspections staff presented an information session on draft revisions to Asheville's Minimum Housing Code, which was last amended in 1983. At the same time, interested persons and organizations who had expressed an interest in these revisions were furnished with copies of the revised Code, and with background information on the Code revision process.

Fire Chief John Rukavina presented three threshold questions for the Council to consider:

1. Should Asheville have a minimum housing code?

Pros-Allows for maintenance of health and safety in housing.

Maintains condition of housing stock

Provides for living environment that meets minimum community expectations

Cons-Some insurance and mortgage companies require their own inspections before they will insure a dwelling

Intrusion on the rights of private property owners

The market will assure that housing is maintained to meet demand

2. If Asheville has a minimum housing code, should it apply to rental property?

Pros-Housing market is tight enough that low income tenants must compete for available rental housing, regardless of condition

Health and safety conditions are maintained through an inspections program

Cons-The market will assure that rental property conditions meet the demand for health, safe and rental property

Many apartment owners already go through insurance, HUD, etc. inspections

3. If Asheville's minimum housing code applies to rental property, how will inspections be scheduled?

- Inspect rental property only upon complaint
- Maintain present "change-of-occupancy" standard (at this time, the code's "change-of-occupancy" standard cannot be effectively enforced, since rental property owners cannot schedule inspections between departure of tenants and arrival of new tenants among the 12,000+ rental units in Asheville.)
- Periodically inspection of all rental units, regardless of occupancy.

Councilman Peterson questioned why the City is trying to adopt a new Minimum Housing Code, when it already has one in place that is not being enforced. Mr. Hixson explained that it was at the direction of the City Council in 1990 for staff to begin reviewing the Asheville Minimum Housing Code.

When asked by Councilman Peterson about additional funding if the new Code were to be adopted, Mr. Hixson stated that he felt the Inspections Division would need 5 additional inspectors, or approximately $150,000, who would do nothing but housing inspections.

Councilman Swicegood felt he needed to have more information as it relates to the budget, i.e., personnel and vehicles.

There was a lot of discussion amongst Council, staff and the City Attorney relative to the standards in the landlord/tenant law and the relationship of that law to the minimum housing code.

Councilman Moore stressed that the Code should have clearly definable standards and a method of enforcement.

Councilman Swicegood moved to adopt the landlord/tenant standards at it pertains to minimum housing. This motion was seconded by Councilman Peterson.

Councilman Worley suggested the Council delay action on this matter for two weeks to not only look at the landlord/tenant law, but to also look for ways to possibly lessen the regulations in the present Minimum Housing Code.

Councilman Worley moved to table the motion until May 11, 1993, in order to give the Council an opportunity to look at the issues relative to the landlord/tenant law. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Scott Dedman, Pisgah Legal Services, slowed a short slide presentation of many deteriorating rental structures due to the City being unable to enforce its minimum housing code in a comprehensive way.

Mr. Jim Barrett, housing law attorney for Pisgah Legal Services, read a prepared statement summarizing three main points - (1) minimum housing codes are crucial for our community health and safety; (2) our current voluntary inspection system is not working; and (3) we are not catching the deterioration of housing in time to prevent the houses from being lost.

Mr. Mike Tavener, President of the Asheville Board of Realtors, said that they had studied this issue for years and summarized by saying that the Board of Realtors are opposed to any required Certificate of Occupancy (hereinafter "CO") whether as a component of a revised housing code, or as part of the existing housing code. He spoke about several issues that supported their opposition of any CO.

Mr. Peter Placentino, President of the Apartments Association of North Carolina, urged the Council to review the landlord/tenant law and not impose any additional regulations.

Mr. Rick Hopkins, Apartments Associations of North Carolina, said that the money expended by the landlords for the additional CO's obviously will be passed along to the tenants, but the additional expenditures might also push the landlords into a different business, thus making affordable housing hard to find. He felt that the landlord/tenant law was already a mechanism in place and tenants have a lot of other remedies available to them if they live in substandard housing.

Ms. Minnie Jones felt that the existing Code should be strictly enforced so that safe, affordable housing can be realized for everyone.

Mr. Bert Sonner, Appalachian Realty, recommended removal of the CO requirement and suggested it be replaced by a minimum standards sanitation and structural integrity inspection. He said that inspection would apply to rental units only and be performed every three years, free of charge. He stated that all other CO inspections should be voluntary and at the sole discretion of the property owner, except for complaints.

Mr. Rich Mathews, Executive Director of Neighborhood Housing Services, read a prepared statement in which he spoke in support of strengthening the housing code. He felt the key to the housing code's success will be the continued hiring and training of competent housing inspectors and enforcement officers.

Ms. Cindy Weeks, Director of Mountain Housing Opportunities, supported the strengthening of the housing code.

Ms. Beth Maczka, Chairman of the Affordable Housing Coalition, read a resolution adopted by the Coalition resolving that the Coalition seeks the adoption of the proposed Asheville Housing Code with three changes - (1) "58 degrees" be changed to "65 degrees" in Section 1.5.` on page 12, so that residents will not be tempted to use unsafe portable heaters for supplemental heat; (2) "R-19" be changed to "R-30" in Section 4.19 on page 23, so that residents will not be tempted to use unsafe portable heaters for supplemental heat and since the federal government

recommends "R-38" for this region; and (3) that regular inspections of rental properties occur every 2 years because of the age of the housing stock and the effect of turnover on the condition of homes.

Ms. Molly Sandridge, property manager, briefed the Council on the CO requirements in the other two cities in North Carolina. She felt that since the mandatory seller disclosure act will go into effect in 1994, and since a large percentage of home buyers currently have written into their sales contract a provision requiring a private home inspection, a CO inspection is unnecessary and costly.

Ms. Carolyn Wallace, Citizens for Quality Development, spoke about the importance of a strong, fair housing code.

Mr. George Morosani, property owner, was concerned about the mandatory inspection of apartments. He felt that the existing rules and regulations were sufficient, but needed to be fine tuned.

Ms. Bonnie Bailey, President of the Greater Asheville Area Apartment Association, said that they Association feels that there is a need for a minimum housing code to deal with the abandoned or substandard housing, however, they feel that the City does not need a required systematic inspection of all rental dwellings. They feel that these inspections will only be an undue tax burden on the owner that will be passed onto the renters.

Mr. Kit Garren, rental property manager in Asheville, spoke in opposition of the proposed code, specifically the CO requirement. He felt the code is unenforceable especially as it relates to obtaining the inventory of rental units in the City.

Ms. Valerie Muhlinghaus spoke in favor of a minimum housing code to protect the rights of poor people who are not aware of all the rights they do have.

Ms. Faye Boone, apartment manager, felt there were many apartment managers in Asheville who care about their tenants and make sure that they live in an environment where they are safe, happy and content. She felt that the City did not need any more housing laws, but felt people should be educated on the alternatives available to them.

Ms. Kimberly Fink-Adams, Mediation Center, felt that there are several avenues for people to resolve housing issues, but without an enforceable code, not only are the

inspectors frustrated, but tenants are frustrated too. She strongly suggested money be spent in the Inspections Division to enable inspectors to enforce the Code.

Mr. Bill Goacher, rental property owner, asked the Council to reconsider the whole idea of a CO. He urged Council to repeal the present Code and do not pass any revised one.

Mr. George Beverly, 300 Executive Park, felt that the City needed some type of minimum housing code, but not the proposed one. He gave several reasons why he felt the City did not need the existing Code provision which provides for the CO process. He then passed out a packet of information which included the Selected Provisions of the Residential Rental Agreements Act, N. C. Gen. Stat. secs. 160A-441 through 160A-445, and a copy of a Bill entitled "An Act to Create the Residential Property Disclosure Act."

Ms. Glenda Lloyd, tenant in Kenilworth, was concerned that tenants, barely making ends meet now, would be paying the costs of landlord's being forced to make improvements to meet the new Code.

Ms. Betty Moore, Beverly-Hanks, felt the original concept of the existing Code is not out of proportion. She felt the City did not need any more requirements than it already has in place.

Mr. Bob Tucker, Carolinas Real Estate Investment Association, gave reasons why they are opposed to the existing Code, the new proposed Code and especially the present CO requirements.

Ms. Rebecca Tucker, manager of rental properties, said that there is a lack of low income housing in the City, but investors do not want to put there money into the City housing stock because they know it will cost them almost triple to keep their properties rented in the City.

Ms. Betty Williams spoke about how unfair the present CO requirement is to property owners.

Mr. Don Noakley, commercial broker in the City, felt that the City had too many regulations in place now and felt the City should abolish the CO requirement.

Ms. Jimmie Lockman, Vice President of the Coalition of Asheville Neighborhoods, spoke in support of the strengthening of the housing code and efforts of enforcement.

Mr. Curtis Venable, attorney, voiced his concerns over the lack of specific standards in the landlord/tenant law and supported strict enforcement of the housing code.

Ms. Joanne Coates, Manager of the Meadows Apartments, spoke about the need for decent affordable housing, but felt that the CO requirement is not the answer.

Ms. Leni Sitnick, 90 Gertrude Place, hoped the Council would work with the County Commissioners to avoid both governing body meetings being held at the same time on the same day. She spoke in support of strong enforcement of the Code and encouraged the Council to consider the additional inspectors needed to enforce the Code in a consistent manner.

A page of comments was submitted by Mr. Eric M. Sifford summarized as follows: (1) there needs to be some protection offered to the owner if complaints are repeatedly made and no violations exist; (2) there should be no need to reinspect a building after the building fails to receive a CO at the first inspection, until remedies have been undertaken; and (3) detailed reports should be delayed until the rehabilitation is complete and a realistic inspection can be made, instead of requiring the report at the time of the CO inspection.

Mayor Michalove closed the public hearing at 7:00 p.m.

III. OLD BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 2022, ORDINANCE AMENDING ZONING PROPERTY LOCATED AT 16 STERLING STREET**

Mayor Michalove said that the public hearing on this matter was held on April 6, 1993, at which time the ordinance passed on first and second reading.

On a roll call vote of 7-0, Ordinance No. 2022 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 212

B. **THIRD READING OF ORDINANCE NO. 2018, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 67 MT. CLARE AVENUE**

Mayor Michalove said that the public hearing on this matter was held on March 30, 1993, at which time the ordinance passed on first and second reading.

On a roll call vote of 7-0, Ordinance No. 2018 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 204

C. RESOLUTION NO. 93-50 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO SET FORTH FEES FOR FIRE INSPECTION SERVICES

Fire Chief John Rukavina said that on December 10, 1991, the North Carolina State Building Code Council adopted one of the most stringent mandatory fire inspection programs in the United States.

He said that under Section 107 of Volume 1 of the State Building Code, virtually every structure except one- and two-family homes must be inspected on a one-, two- or three-year schedule (the frequency depends on occupancy type).

At this time, Asheville does not have sufficient fire inspections resources to meet the Building Code mandate. On March 2, 1993, the City Council reviewed an inspection-fee proposal that applied "flat" fees, based on frequency of inspection. City Council members indicated at a flat-fee system would treat a large hospital, for example, exactly the same as a small business in terms of cost.

Since that meeting Fire staff have reviewed fire inspection fee practices in North Carolina. They found that (1) most jurisdictions that charge for inspections use a flat fee, based on ease of application; and (2) the two jurisdictions that use fees based on occupancy type base those fees on a combination of building size and complexity of inspections.

Based on this information, a revised fee schedule has been proposed. The fees now range from $12.50 to $100.00. This fee schedule takes into account the following elements: (1) building size; (2) to a lesser extent, inspection complexity; (3) the estimated number of occupancies of each type; and (4) the cost-recovery goals of the fee system--to generate revenues to cover the additional costs brought about by the State Building Code's mandatory fire inspection program.

As inspections are undertaken under this program, additional information (precise square-foot building sizes, time required for inspections as it relates to occupancy type, etc.) will be obtained for future analysis of this mandatory inspection fee program.

Upon inquiry of Vice-Mayor Ellison, Fire Chief Rukavina said that it is premature at this time, but there is a possibility that after the 120 firefighters are certified to do the inspections, combined code enforcement visits could be conducted, thereby imposing only one fee.

It was the consensus of Council to inform the public as much as possible to let them know about this new service that is required by State law and how the inspection process will be implemented.

Fire Chief Rukavina explained that the Fire Code is only a maintenance code and their goal is to inform people what they need in terms of fire protection.

Vice-Mayor Ellison was concerned about how the housing code inspections will relate to the fire code inspections in residential rental units. Fire Chief Rukavina suggested not charging a fee on inspections of residential rental apartments at this time until further information could be furnished to the Council. He did explain, however, that the inspections will continue, only the City will not be charging a fee for them.

Councilman Peterson was concerned about more fees being imposed upon the taxpayers and suggested that since the Council is in the process of looking at the 1993-94 budget, this would be a good item for the Council to consider.

City Manager Bean said that the $76,000 will have to either be taken from property taxes (which will be more easier to collect but all property owners will have to pay based on the value of their property), or by a fee which more equitably distributes the true cost of doing the service.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it will not be read.

Vice-Mayor Ellison moved to adopt Resolution No. 93-50 effective May 27, 1993, excluding the fees to be charged for residential rental units until further information can be furnished to the Council. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 121

IV. NEW BUSINESS:

A. **ORDINANCE NO. 2024 - ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF ASHEVILLE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE**

City Attorney Slawter said that this ordinance will adopt and enact a new Code of Ordinances for the City of Asheville, published by the Municipal Code Corporation. This Code is effective up to and including September 29, 1992, and will be supplemented at least annually.

Mayor Michalove said members of Council have been furnished with a copy of the ordinance and it will not be read.

Councilwoman Field moved to for the adoption of Ordinance No. 2024. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2024. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2024. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2024 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 216

B. **INTRODUCTION OF BOND ORDER AUTHORIZING THE ISSUANCE OF $1,300,000 STREET AND SIDEWALK BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA**

City Manager Bean said that on April 6, 1993, the Council approved a resolution directing the Finance Director

to apply to the Local Government Commission for the issuance of $1,300,000 in two-thirds bonds. The Local Government Commission is expected to give conditional approval pending receipt of paying agent letters verifying actual payments on bond principal during Fiscal Year 1993. This action provides for the formal introduction of the $1,300,000 two-thirds bonds for streets and sidewalks.

Upon inquiry of Ms. Leni Sitnick, City Manager Bean explained that all plans and specifications are routed through the Utilities Coordinating Committee before any bids are let in order to minimize cutting into new streets and sidewalks.

Councilman Moore moved to accept the introduction of the bond order. This motion was seconded by Councilman Worley and carried unanimously.

C. RESOLUTION NO. 93-51 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE OTEEN II AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION

Ms. Patty Tallerday, Senior Planner, said that this resolution states the intent of the City to consider the annexation of an area east of the City limits. The boundaries of the annexation are, generally, the City limit line to the west and south; Miller Road, Lower Grassy Branch Road and Hickory Tree Road to the north; and the Swannanoa River to the east. The area includes The Summit, the VA Hospital, the Evergreen Mobile Home Park and several other housing developments.

She said a public hearing date on the question of annexation is set for June 15, 1993. A report setting forth plans for the extension of municipal services to the area proposed for annexation will be presented for adoption by City Council at least 30 days prior to the date of the public hearing.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-51. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 20 AT PAGE 125

D. RESOLUTION NO. 93-52 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE BEAVERDAM RUN AREA AND FIXING THE DATE OF A PUBLIC HEARING ON THE QUESTION OF ANNEXATION

Ms. Patty Tallerday, Senior Planner, said that last year the City of Asheville initiated proceedings for the annexation of the Beaverdam Run Condominiums. Prior to adoption of the annexation ordinance, a resolution was adopted by the Beaverdam Run Condominium Association and the owner/developer in which they agreed not to contest the annexation of their community and to voluntarily annex any undeveloped portions of the development if the effective date of the annexation could be postponed until June, 1994.

She said that this resolution states the intent of the City to consider the annexation of an area northeast of the City limits. The boundaries of the annexation are, generally, the City limit line to the west; Beaverdam Run Condominiums to the north and east, including properties along Sunnyside Lane; and Beaverdam Road to the south.

She said a public hearing date on the question of annexation is set for June 15, 1993. A report setting forth plans for the extension of municipal services to the area proposed for annexation will be presented for adoption by City Council at least 30 days prior to the date of the public hearing.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-52. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen Peterson and Swicegood voting "no".

RESOLUTION BOOK NO. 20 AT PAGE 128

E. HAW CREEK MEWS SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Sicash Builders, Inc., is seeking final plat approval of the subdivision of an 18.4 acre parcel located north of the intersection of Beverly Road and Avon Road. The property is zoned R-3 residential and is surrounded by single-family residential properties, except to the west where commercial development exists. The proposal is to divide the property into 2 lots (1 at 10.6 ac. and 1 at 7.8 ac.).

The entire property is being developed as Haw Creek Mews Apartments, a multi-family residential community. Phase I of the development is located within the smaller lot and has been constructed. Phase II, which is the larger lot, remains mostly undeveloped. It is our understanding that the subdivision is being proposed for financing reasons.

All utilities have approved the availability of services to the site and the final plat does meet the requirements of the Zoning Ordinance and Subdivision Regulations.

At their April 7, 1993, meeting, the Planning and Zoning Commission approved the preliminary plat of the Haw Creek Mews Subdivision.

Upon inquiry of Mr. Johnny Hayes, Mr. Green explained that this action is not an expansion of the development, only approval of the final plat and in this case the developers are subdividing the property for financing reasons.

Vice-Mayor Ellison moved to approve the final plat for Haw Creek Mews Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE APRIL 6, 1993, CITY COUNCIL MEETING**

B. **RESOLUTION NO. 93-53 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, REGARDING BOND ORDER AUTHORIZING THE ISSUANCE OF $1,300,000 STREET AND SIDEWALK BONDS OF THE CITY OF ASHEVILLE, SETTING A PUBLIC HEARING FOR MAY 11, 1993, AND DIRECTING PUBLICATION OF A NOTICE OF SAID PUBLIC HEARING**

Summary: This resolution provides for a public hearing on May 11, 1993, on the issuance of $1,300,000 two-thirds bonds for streets and sidewalks. It directs the City Clerk to publish the Bond Order with a Notice of Public Hearing on or about April 30, 1993. It also directs the Finance Director to submit a Statement of Debt to the Local Government Commission.

RESOLUTION BOOK NO. 20 - PAGE 132

C. **MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO AMENDING THE ZONING ORDINANCE TO ALLOW CHANGEABLE COPY SIGNS ON MULTIPLE TENANT DEVELOPMENT SIGNAGE**

D. **MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO APPROVAL OF THE PRELIMINARY PLAT AND A VARIANCE FOR BEAVER CREEK SUBDIVISION**

E. **MOTION SETTING A PUBLIC HEARING FOR MAY 11, 1993, RELATIVE TO A VARIANCE FOR WESTLAND SUBDIVISION**

F. **RESOLUTION NO. 93-54 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS, INC., FOR REPLACEMENT OF THE GLENDALE AVENUE BRIDGE OVER THE SWANNANOA RIVER.**

Summary: A suitable agreement has been negotiated with Thompson-Gordon-Shook Engineers, Inc., for design of a replacement bridge over the Swannanoa River at Glendale Avenue. The bridge project is included for funding in the N.C. Department of Transportation's Transportation Improvement Program. Eighty percent is to be provided by the Federal Highway Administration's Off-System Bridge Program and 20% City funds. This cost sharing will include design, right-of-way construction, and project administration.

RESOLUTION BOOK NO. 20 - PAGE 133

G. **RESOLUTION NO. 93-55 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS FOR CONVEYANCE OF TAX LOTS TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Summary: The City holds an interest in various parcels of land by virtue of tax foreclosures conducted by Buncombe County. The lots are held in the name of the County for the joint benefit of the County, the City and the Asheville City Schools. The Housing Authority has requested the County to convey to the Housing Authority four tax foreclosure lots in the Montford Community (Margaret and Morrow Streets) for use in a low income subsidized housing program. This resolution will authorize the Mayor to execute a deed and any other documents necessary for the transfer to the Housing Authority of any interest that the City may have in those four lots.

RESOLUTION BOOK NO. 20 - PAGE 134

H. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AMENDMENT #1 TO AN ENGINEERING SERVICES AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS FOR ENGINEERING SERVICES FOR THE STREETS AND SIDEWALKS IMPROVEMENT PROGRAM**

This item was deleted from the agenda.

I. **RESOLUTION NO. 93-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SETTLE CLAIMS FOR EASEMENT ACQUISITIONS WITH PRIVATE PROPERTY OWNERS**

Summary: From time to time the City of Asheville acquires easements from private property owners for a public purpose. At times differences arise between the City and private property owners concerning the fair market value of the easement acquisition that can be settled. This resolution will authorize the City Manager to settle those differences in an amount not to exceed $15,000.

RESOLUTION BOOK NO. 20 - PAGE 135

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 93-57 - RESOLUTION OF INTENT TO CLOSE ATKINSON STREET, VIEW STREET AND HAZEL AVENUE AND SETTING A PUBLIC HEARING ON THIS MATTER FOR JUNE 8, 1993**

Councilman Peterson explained that the purpose of this resolution is to turn back over to the Housing Authority all the streets located in Hillcrest, pursuant to the request of the residents in Hillcrest.

Councilman Peterson moved for the adoption of Resolution No. 93-56. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 136

B. **COMMENTS RELATIVE TO ASHEVILLE TRANSIT AUTHORITY**

Ms. Laura Deaton, North Carolina Alliance for Transportation Reform, read a prepared statement asking the Council to (1) condemn the firing of Mark Rickards for a letter to the editor; (2) request that the city contractor,

CCL Management, immediately reinstate Mr. Rickards; (3) explore ways to cancel the contract if CCL Management refuses to reinstate Mr. Rickards; (4) contact Mr. Rickards and ask him for his side of the story; and (5) issue a written and public report on the role the ATA and chairperson Wanda Winslow played in the firing of Mr. Rickards.

Councilman Swicegood stated that he has, in fact, talked to Mr. Rickards concerning the situation.

Councilman Worley shared his personal and professional concerns over this issue.

Vice-Mayor Ellison expressed his personal feelings and stated that the City Attorney is looking into some of the concerns addressed.

Councilman Moore stated his personal feelings was assured that the Asheville Transit Authority did not act improperly in the Mark Rickards' matter.

Councilwoman Field said she was convinced that the Asheville Transit Authority, as a group, did not do anything improper in this matter. She said that she would not vote to give CCL Management an extension on their contract if she was still on Council.

Mr. Monroe Gilmore felt the City Council was responsible to give a report to the public concerning this matter.

Mr. Wally Bowen, 238 Forest Hill Drive, read a prepared statement which, among other things, requested the City Council to hold a public hearing on this issue.

Ms. Leni Sitnick, 90 Gertrude Place, urged the City Council to look into this situation further.

Councilman Peterson assured the audience that the Council has not closed the door on this issue. He also stated that he would be opposed to dealing with CCL Management in the future.

Ms. Melissa Lane, 340 School Road, read a statement from the WNC Chapter of the American Civil Liberties Union. She stated the following concerns surrounding the firing of Mark Rickards: (1) freedom of speech; (2) a fair and open hearing; and (3) accountability.

C. COMMENTS CONCERNING DAY AND TIME OF COUNTY COMMISSION MEETING AND CITY COUNCIL MEETING

Mr. Chris Johansen urged the Council to work with the Buncombe County Commissioners to avoid having the City Council meeting and the County Commissioners meeting on the same day at the same time.

D. CLAIMS

City Manager Bean said the following claims were received by the City during the week of April 5-9, 1993: Patricia O'Donnell (Inspections), Patricia Coxey (Streets), Jerry Dockery (Water), and Columbia Bible College (Water).

He said the following claims were received by the City during the week of April 19-23, 1993: Frank Hyatt (Water), Bruce O'Connell (Water), and Carol Alberice (Parks).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:45 p.m.

Frances D. Faircloth
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - May 11, 1993 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Carr Swicegood gave the invocation.

I. PROCLAMATIONS:

A. **PROCLAMATION PROCLAIMING MAY 17-21, 1993, AS "NATIONAL POLICE WEEK" AND MAY 19, 1993, AS "PEACE OFFICERS MEMORIAL DAY"**

Mayor Michalove proclaimed the week of May 17-21, 1993, as "National Police Week" and May 19, 1993, as "Peace Officers Memorial Day" and presented the proclamation to Major Will Annarino.

B. **PROCLAMATION PROCLAIMING MAY 18, 1993, AS "BIKE TO WORK DAY"**

Mayor Michalove proclaimed May 18, 1993, as "Bike to Work Day" and presented the proclamation to Mr. Chris Johansen.

C. **PROCLAMATION PROCLAIMING MAY, 1993, AS "ADOLESCENCE PREGNANCY PREVENTION MONTH"**

Mayor Michalove proclaimed the month of May, 1993, as "Adolescence Pregnancy Prevention Month" and presented it to Ms. Kathleen Balough.

D. **PROCLAMATION PROCLAIMING MAY 16-22, 1993, AS "NATIONAL PUBLIC WORKS WEEK"**

Mayor Michalove proclaimed May 16-22, 1993, as "National Public Works Week" and presented the proclamation to Mr. Jim Ewing, Director of Public Works.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO THE ADOPTION OF A SMALL AREA PLAN KNOWN AS THE HENDERSONVILLE ROAD CORRIDOR PLAN AS AN ADDENDUM TO THE ASHEVILLE CITY PLAN 2010**

RESOLUTION ADOPTING A SMALL AREA PLAN KNOWN AS THE HENDERSONVILLE ROAD CORRIDOR PLAN AS AN ADDENDUM TO THE ASHEVILLE CITY PLAN 2010

Mayor Michalove opened the public hearing at 4:20 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, said that the Asheville 2010 Plan identifies the need for additional neighborhood plans, small area plans, downtown development plans, etc. as part of the continuing planning process for the community.

The purpose of each small area plan is to provide, through intense public input, a view of the growth patterns in various areas around the City and to provide a more detailed and focused future land use guide for the purpose of planning and future zoning.

These small area plans are not zoning plans but are plans to guide growth, which hopefully is more reflective of the practical needs of all the property owners in the area and the accommodation of appropriated new needs and uses.

The Hendersonville Road Corridor Plan was initiated both by the Transportation Advisory Committee and the Planning and Zoning Commission for several reasons, (1) the need to look at the future land uses for this area, which is undergoing a major road widening project and disruption of commercial land along the corridor; (2) the need to guide future zoning strategies for this area and address some current rezoning petitions; (3) the need to plan now for the future capacity of the roadway so that traffic congestion can be minimized and other forms of transportation, namely bike routes, transit amenities and pedestrian travel can be incorporated as time goes by; and (4) the desire to make this entrance to the City as attractive as possible with continuity in landscaping and lighting.

Lastly, this plan is unique because it is the first small area plan to be presented the City Council as a 2010

Addendum, and it is also a plan featuring the two separate municipal jurisdictions - the City of Asheville and the Town of Biltmore Forest - which by legal descriptions are separated by the centerline of Hendersonville Road.

Both the Town of Woodfin and the Town of Biltmore Forest touch the Asheville City limit line. It's also true in other areas of the state - Chapel Hill/Carrboro, Highpoint and Greensboro, Raleigh and Garner and Charlotte with Pineville and Matthews. Planning in these areas encompasses all property owners in an area.

As with these cities, the planning process for our small area plan included property owners on both sides of the street. However, the planning approvals for this plan are separate actions with each jurisdiction focusing on their respective land use plans.

Mr. Tom Elmore, Land of Sky Regional Council, stated that this Plan is an attempt to recommend high intensity uses along the corridor and yet deal with systems of strip development. He spoke extensively about the way three ways the Plan will deal with strip development - (1) landscaping and lighting; (2) shared access; and (3) recommending a mix of land use types. He then described the characteristics of three versions of the land use map, Plan A (plan which came out of the public process), Plan B (staff revisions of Plan A which came out of the first meeting with Planning & Zoning Commission), and Plan C (further revisions adopted by Planning and Zoning Commission).

Upon inquiry of Councilmen Peterson and Swicegood, Mr. Nelson Smith, Town Administrator for the Town of Biltmore Forest, said that the City of Asheville asked the Town of Biltmore Forest for their participation in the Corridor Plan.

Councilwoman Field stated that the Corridor Plan was generated by the Transportation Advisory Committee which is the Asheville Urban Area. The Asheville Urban Area includes Asheville, Biltmore Forest, Black Mountain, etc. All of those areas are a part of the Asheville Urban Area and that is how the North Carolina Department of Transportation relates to the City of Asheville. She said the City could not have done the corridor study without money from the Department of Transportation.

Vice-Mayor Ellison felt that Plan C is more favorable to the property owners who have been impacted the most by the widening of Hendersonville Road.

At this time, Ms. Tallerday answered several questions related to the different plans.

Coming out from a buffering discussion, Councilman Worley suggested the following language be inserted on page 4 of the Plan: "In places where the commercial use area abuts a residential street on the east, a buffer should be required between the commercial use area and the street. This can be accomplished by leaving as little as one foot of the commercial use lot zoned residential where it abuts the street. This will also serve to prevent use of the residential street by commercial vehicles seeking access to the commercial lot and will further serve to prevent intrusion into the residential area."

Mr. Carl Ricker, property owner on Hendersonville Road, felt that his comments made at the prior public hearings were not incorporated into any of the plans. He stated, among other things, that he recommended Plan C but felt that there were several items in the Plan that would not work. He stated concerns related to the pedestrian activated crosswalks and felt there would not be a lot of pedestrians crossing Hendersonville Road. He also mentioned concerns about the one driveway access per parcel.

Mr. Loyd Kirk, owner and operator of the Forest Manor Motor Lodge on 866 Hendersonville Road, felt that the area is really a commercial district and should be viewed as such. He spoke in support of Plan C. He did recommend that a 35 mph zone be maintained north of Rock Hill Road in the interest of safety.

Ms. Beth Maczka, President of the Affordable Housing Coalition, read a resolution adopted by the Coalition resolving that (1) the City limit the potential for intrusion of commercial and other non-residential uses into residential areas of the City, such as the area off Hendersonville Road currently under consideration, to minimize the losses of affordable housing units; (2) that City Council instruct the Planning and Zoning Commission and the Asheville Planning Department to assess, consider, and publicize the potential loss of affordable housing in all future zoning requests; and (3) if property with affordable housing units are to be rezoned non-residential in the future, that an equivalent amount to the sum of the ad valorem and sales taxes which inure to the City from such property be dedicated to the creation of new, affordable housing units, or in the alternative that the party seeking the change in zoning provide one-for-one replacement of housing units affected in exchange for the granting of the zoning request.

Ms. Ilene Shroat, 40 Fairview Street, urged the Council to preserve the neighborhoods and spoke in favor of buffering.

Mr. David Quinn, resident of South Asheville, spoke in support of a combination of Plans A and B. He stated that residents do not want an increase of intensity of commercial traffic nor do they want an intrusion of more commercial development back into the neighborhoods. He stated concern of the traffic flow onto the side streets.

Ms. Myra Fuller, resident of Montford and representative of the Coalition of Asheville Neighborhoods, spoke in opposition of the rezoning of residential properties along the Hendersonville Road Corridor to commercial property status. She felt that the Planning and Zoning Commission ignored the efforts put forth by the residents in the area and urged City government to respect the comments made by neighborhood groups. She spoke in support of Plan A because that Plan was a compromise between the residents and the business owners.

Mr. Greg Gregory, resident of South Asheville, felt that there was good public participation in this process but the public participation was disregarded by the Planning and Zoning Commission. He urged the Council not to allow commercial intrusion into the residential neighborhoods.

Mr. George Morosani, property owner on Hendersonville Road, spoke in support of Plan C. He objected to all the comments made by speakers who were not property owners on Hendersonville Road.

Mr. Edward Rutkowski, resident of Crowfields, urged the Council to protect the interests of people who live to the south of Hendersonville Road.

Ms. Mercedes Krider, resident of Hendersonville Road, urged the Council not to zone residential properties commercial because doing that would eliminate low income housing availability.

Ms. Carolyn Wallace, representative of Citizens for Quality Development, spoke about several issues including the opposition of rezoning residential neighborhoods.

Ms. Darlene Sahara, owner of a low-moderate income home, was concerned about losing low income housing.

Mr. Al Wilson, Azalea Development Company, felt that more thought needed to be given to all the corridor plans for the City. He did support Plan C.

Ms. Patricia Skalski, 20 Aurora Drive, read a prepared letter detailing her concerns over the manner in which the Planning and Zoning Commission conducts its business and the process by which the Hendersonville Road Corridor Road Study occurred.

Mr. Harold Talbert, property owner on Hendersonville Road, spoke in support of Plan C.

Ms. Laura Deaton, Executive Director of the North Carolina Alliance of Transportation Reform, spoke about Council's need to reevaluate their appointment practices and policies for various boards and commissions. She spoke in support of Plan A with landscaping enhancements by NC DOT and pedestrian access.

Mr. Tommy Koontz, speaking on behalf of Biltmore Baptist Church, had questions on how this corridor plan would impact his church.

Ms. Polly Hickling thought that the theme of the 1920's lights was great, but felt that the lights would not light the 5 lanes adequately. She urged the Council to put in more lights, not fancier ones, along Hendersonville Road for safety. She also suggested a safer bike route.

Mr. Porter Morgan, owner of two houses on Center Street, urged the Council to keep the traffic from coming onto Reed Street.

Mayor Michalove closed the public hearing at 6:45 p.m.

Council then again discussed the variation in the three land use plans.

Councilman Moore spoke in support of the language Councilman Worley suggested to regarding buffering, but felt that the Corridor Plan was flawed from the beginning and would not support any of the land use maps.

Vice-Mayor Ellison felt a worksession with the Planning and Zoning Commission was needed.

Councilman Worley moved to insert the following language on page 4 of the Hendersonville Road Corridor Plan: "In places where the commercial use area abuts a residential street on the east, a buffer should be required between the commercial use area and the street. This can be accomplished by leaving as little as one foot of the commercial use lot zoned residential where it abuts the

street. This will also serve to prevent use of the residential street by commercial vehicles seeking access to the commercial lot and will further serve to prevent intrusion into the residential area." This motion was seconded by Councilman Moore and carried unanimously.

At this time (6:50 p.m.), Councilman Worley moved to excuse Vice-Mayor Ellison due to his wife's impending delivery of a baby. This motion was seconded by Councilwoman Field and carried unanimously.

Councilman Swicegood moved to accept Plan C. This motion was seconded by Councilman Peterson and failed on a 3-3 vote, with Councilmen Peterson, Swicegood and Worley voting "yes" and Mayor Michalove, Councilwoman Field and Councilman Moore voting "no".

Mayor Michalove instructed the City Manager to set up a meeting with the Planning and Zoning Commission within two weeks.

Councilman Swicegood asked that Council be furnished with the amount of time and money already spent on this project.

At this time (7:00 p.m.) Mayor Michalove called a 5 minute recess.

B. CONTINUATION OF A PUBLIC HEARING TO AMEND ZONING OF 570-582 HENDERSONVILLE ROAD

ORDINANCE NO. 2025 - AN ORDINANCE TO AMEND ZONING OF 570-582 HENDERSONVILLE ROAD

Mayor Michalove stated that the public hearing on this matter was opened on January 5, 1993, and continued until this date in order to give the Council the benefit of the Hendersonville Road Corridor Study.

Ms. Carol Alberice said that 75% of the lot is currently zoned and developed commercially (CH) with one story retail shopping center and the remaining 25% is zoned residential (R-3) and vacant. Due to the widening of Hendersonville Road, there is now a lack of parking.

She said the terrain slopes steep to the east - Reed Street. Site access is both from Hendersonville Road and Reed Street. Reed Street is a narrow two-lane residential street now affected by closing of several adjacent intersecting streets (Fairview, Center Streets).

This request is to remove split zoning and allow the entire lot to be zoned CH Commercial Highway. The public comment received included 13 in opposition and 3 persons in favor. The Planning and Zoning Commission voted unanimously to rezone from R-3 Residential District to CH Commercial Highway District with no discussion.

There was some discussion relative to buffering requirements.

Mrs. William McClain, urged the Council to rezone the requested property. She stated, among other things, the lack of adequate parking.

Mr. Carl Ricker, property owner on Hendersonville Road, spoke in support of the rezoning.

Ms. Ilene Shroat, 40 Fairview Street, spoke against the rezoning.

Mayor Michalove closed the public hearing at 7:33 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved to adopt Ordinance No. 2025 to rezone 570-582 Hendersonville Road from R-3 Residential District to CH Commercial Highway except for a one foot strip along Reed Street where such lot borders Reed Street. This motion was seconded by Councilman Swicegood.

On a roll call vote of 4-2, Ordinance No. 2025 passed on its first reading, with Councilwoman Field and Councilman Moore voting "no".

C. **PUBLIC HEARING RELATIVE TO CHANGEABLE COPY SIGNS ON MULTIPLE TENANT DEVELOPMENT SIGNAGE**

ORDINANCE NO. 2016 - ORDINANCE AMENDING CHAPTER 30, ARTICLE 9, TO ALLOW CHANGEABLE COPY SIGNS ON MULTIPLE TENANT DEVELOPMENT SIGNAGE

Mayor Michalove opened the public hearing at 7:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that on April 7, 1993, the Planning and Zoning Commission, reviewed

and recommended an amendment to the zoning ordinance to allow changeable copy signs as a type of permitted signage for multiple tenant developments in all zoning districts except for the Central Business District.

These was a little discussion about non-conforming signs in the Central Business District.

Mayor Michalove closed the public hearing at 7:44 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2026. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2026 passed on its first reading.

Councilman Swicegood moved to suspend the rules and proceed to the second reading of Ordinance No. 2026. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2026 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2026. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2026 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 222

D. PUBLIC HEARING RELATIVE TO A VARIANCE FOR BEAVER CREEK SUBDIVISION

Mayor Michalove opened the public hearing at 7:45 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Mary Weber, Urban Planner, said the proposed Beaver Creek Subdivision is located off of Beaverdam Road near Carter Cove Road. The 18-acre site will be divided into 8 lots. The heavily wooded site slopes upward to form a knoll, and Beaverdam Creek flows through it.

She said the developer is requesting a variance on the right-of-way width from 50 feet, as required in the Subdivision Regulations, to 40 feet The developer would like to minimize the amount of clearing and grading on the site and feels that 40 feet is adequate for an 8-lot residential subdivision.

She said that the Planning and Zoning Commission recommended approval of the preliminary plat as well as the variance, at their April 7, 1993, meeting, with three conditions:

1. Obtain driveway permit from NCDOT
2. Obtain permit from Army Corps of Engineers to widen bridge.
3. Obtain letter of water availability from the Water Department.

She said the request before the City Council is for approval of the variance only and not for final plat approval.

Mayor Michalove closed the public hearing at 7:47 p.m.

Councilwoman Field moved to approve the variance to reduce the right-of-way width requirement of the subdivision regulations from 50 feet to 40 feet for the Beaver Creek Subdivision. This motion was seconded by Councilman Worley. This motion carried on a 5-1 vote, with Councilman Moore voting "no".

E. PUBLIC HEARING RELATIVE TO $1,300,000 STREET AND SIDEWALK BONDS

Mayor Michalove opened the public hearing at 7:48 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that the Finance Director was authorized to apply for approval of $1,300,000 Street and Sidewalk Bonds on April 6, 1993. The Bond Order was introduced on April 27, 1993. This public hearing will accept public comments on the proposed bonds.

Mayor Michalove closed the public hearing at 7:49 p.m.

F. PUBLIC HEARING RELATIVE TO A VARIANCE FOR WESTLAND SUBDIVISION

At the request of staff, Councilman Worley moved to postpone this public hearing until June 8, 1993. This

motion was seconded by Councilman Moore and carried unanimously.

III. OLD BUSINESS:

A. **THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT**

Councilman Worley moved to continue this matter until August 3, 1993, due to a pending lawsuit. This motion was seconded by Councilman Moore and carried unanimously.

B. **RESOLUTION NO. 93-58 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1993-94**

Mr. Marvin Vierra, Community Development Coordinator, said that this action will authorize submission of the CDBG application for 1993-94. Funding includes the following:

Affordable Housing Coalition	$ 20,000
A-B Community Christian Ministry	70,686
A-B Community Relations Council	14,500
Family Services Center	2,800
HACA-City Wide Rehab	320,000
HACA-Hillcrest Enrichment	30,314
HACA-Hill/Cherry St Neighborhood	225,500
HACA-HOPE-1	125,000
HACA-South Pack Square	23,000
Mountain Housing Opportunities	100,000
Neighborhood Housing Services	50,000
Opportunity Corporation	10,000
WNC Habitat for Humanity	175,000
HOME Project Administration	31,850
Disparity Study	38,637
C.D. Administration	154,247
Minority Business Program	71,466
C.D. Planning	30,000
Total	$1,493,000

Councilwoman Field suggested funding $10,000 to MAGIC Community Gardens. It was her understanding, from talking to Mr. Vierra, that those funds were available from surplus funds.

Mr. Vierra stated that the City could include the $10,000 for MAGIC with no reduction in the other budgets. He felt that since the Housing Authority will be selling some property in the coming year, there will be surplus funds, but because the surplus amount is not known, they do purposely under-estimate program income.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved to amend the resolution to add $10,000 for MAGIC Community Gardens. This motion was seconded by Councilman Moore, with the understanding that he would not approve the funding for MAGIC next year.

Mayor Michalove voiced concern over funding social programs versus funding more for housing needs which are tremendous. He stated that he would like to look at the options available for surplus funds since the CDBG program can be amended at anytime.

Councilman Swicegood echoed the Mayor's concerns.

The motion made by Councilwoman Field above, seconded by Councilman Moore was then voted upon. The motion was defeated on a 2-4 vote, with Councilwoman Field and Councilman Worley voting "yes", and Mayor Michalove, Councilmen Moore, Peterson and Swicegood voting "no".

Councilman Worley then moved for the adoption of Resolution No. 93-58. This motion was seconded by Councilman Moore and carried on a 5-1 vote, with Councilwoman Field voting "no".

Mayor Michalove asked that the Housing and Community Development Committee talk about alternative uses for the surplus funds.

RESOLUTION BOOK NO. 20 AT PAGE 138

VI. NEW BUSINESS:

A. RESOLUTION NO. 93-59 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE OTEEN II ANNEXATION AREA

Mr. Paul Benson, Urban Planner I, summarized the Plan by saying that three more sworn police officer would be

needed; a five-year agreement with the Riceville Volunteer Fire Department would be entered into (or an amendment to its current contract); and approximately 4,200 linear feet of 6-inch water line along Arnold Road, Miller Road and two private streets extending from Hickory Tree Road, fire hydrants and approximately 6,240 linear feet of 8-inch sewer line along Arnold Road, Hickory Tree Road, and private streets extending from Grassy Branch Road and Hickory Tree Road would be necessary. Solid waste collection and street maintenance services will be provided to this area on substantially the same basis and in the same manner as it is provided within the City on the date of annexation.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-59. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 140

B. RESOLUTION NO. 93-60 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE BEAVERDAM RUN ANNEXATION AREA

Mr. Paul Benson, Urban Planner I, said that N. C. Gen. Stat. sec. 160A-49, requires the City to approve the report extending City services to the proposed annexation area at least 30 days prior to the public hearing, which is scheduled for June 15, 1993.

He highlighted the Plan by stating that one more sworn police officer would be needed; a five-year agreement with the Beaverdam Volunteer Fire Department would be entered into (or an amendment to its current contract); and approximately 400 linear feet of 6-inch water line, a fire hydrant and approximately 350 linear feet of 2-inch water line along Sunnyside Lane would be necessary. Solid waste collection and street maintenance services will be provided to this area on substantially the same basis and in the same manner as it is provided within the City on the date of annexation.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-60. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 154

C. MOTION RELATIVE TO THE MANUFACTURED HOUSING POLICY ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mr. Gerald Green, Senior Planner, said that the UDO Committee identified several policy issues on which direction was requested from City Council. Manufactured housing on individual lots was one of the policy issues forward to City Council for development of a recommendation. A special committee, the Mayor's UDO Committee, was established to develop recommendations on the policy issues. As part of the process of developing the recommendations, public education sessions and public hearings were conducted on each of the policy issues. Public input, the recommendations of the Planning and Zoning Commission and of the UDO Committee, and staff input were considered in development the recommendations.

The following recommendation for addressing the issue of placing manufactured housing on individual lots is presented by the Mayor's UDO Committee:

"The following actions shall be taken to increase the opportunities for placement of manufactured housing in the city's planning area and to assure that the manufactured housing is compatible with the neighborhoods in which it is located.

Individual manufactured homes shall comply with the standards set forth in the standards for manufactured homes adopted by City Council in the fall of 1991. Issues addressed by these standards include:

- Minimum size of the home (only double wide homes permitted);
- Permanency of the home (removal of the tongue, axles, running lights, and towing apparatus);
- Placement of the home (to be compatible with surrounding site-built homes);
- Design standards for the home (roof pitch and siding);
- Permanent, continuous founding of brick, rock, or similar material must be provided;
- All additions (steps, deck, porch, etc.) must meet building code standards.

Manufactured homes on individual lots shall be permitted through the use of appropriately designated overlay zones. The following criteria shall be used to identify potential overlay zones:

- Presence of existing manufactured housing in the area;
- Manufactured housing would be compatible architecturally with existing housing in the area. The appearance and character of site-built homes in the area are similar to manufactured housing;
- Vacant land upon which manufactured housing could be located is available in the area or there are existing, older manufactured/mobile homes would could be replaced with new homes meeting the standards approved by the City.

Overlay zones in which manufactured housing on individual lots would be permitted shall be identified and designated using the following procedure:

- Planning staff identifies certain areas which may be appropriate for designation as overlay zones. Property owners in an area may initiate investigation of an area as a potential overlay zone;
- Planning staff undertakes surveys of identified areas to determine whether they meet the criteria identified above for potential overlay zones;
- Areas meeting the established criteria are identified as possible overlay zones for manufactured housing;
- Staff will conduct neighborhood meetings in those areas identified as possible overlay zones for manufactured housing to solicit the input of property owners and residents. Public comments will be provided to the Planning and Zoning Commission and to City Council for their consideration when reviewing the requested;
- The request for designation as an overlay district will be treated as a rezoning request, with public hearings held by the Planning and Zoning Commission and City Council and final action taken by City Council."

Councilwoman Field moved to amend the policy issue to read as follows (underlining denotes amendment): "Overlay zones, in which manufactured housing on individual lots would be permitted, <u>excluding R-1 and R-2 zones or their</u>

equivalent in the new UDO, shall be identified and designated using the following procedure:" This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Moore voting "no".

Councilman Worley moved to adopt the above amended policy issue addressing the issue of placing manufactured housing on individual lots. This motion was seconded by Councilman Moore and carried unanimously.

D. MOTION RELATIVE TO THE GRADING IN THE BUFFER ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mr. Gerald Green, Senior Planner, echoed the statements made earlier relative to how this policy issue is now before Council.

The following recommendation for addressing the issue of grading in the buffer is presented by the Mayor's UDO Committee:

"When developing a site, the developer shall have two options regarding grading in the buffer:

1. Grading is prohibited in a strip with a minimum width of 10 feet along the side and rear property lines for sites over one acre; or

2. Grading is permitted in the buffer area and the developer is required to plant trees and shrubs which are 50% larger than normally required in order to quickly reestablish a visual buffer.

Utilities should be installed along the edge of the required buffer area and cross perpendicular to the buffer area. Grading in the required buffer area shall not exceed a 2:1 slope. Developers will be encouraged to provide as gradual a slope as possible in the buffer area to provide increased soil stability and a better planting environment for buffer trees and shrubs."

Councilman Moore moved to adopt the above policy issue addressing the issue of grading in the buffer. This motion was seconded by Councilwoman Field and carried unanimously.

E. MOTION RELATIVE TO THE SPECULATIVE GRADING ISSUE FOR THE UNIFIED DEVELOPMENT ORDINANCE

Mr. Gerald Green, Senior Planner, echoed the statements made earlier relative to how this policy issue is now before Council.

The following recommendation for addressing the issue of speculative grading is presented by the Mayor's UDO Committee:

"Speculative grading shall be permitted in all zoning districts with the requirement that landscaping be planted around the site. A landscape plan indicating required buffer trees and street trees must be approved by the planning staff prior to issuing a grading permit for the site. Landscaping as shown on the approved landscape plan must be planted upon completion of the grading. Speculative grading in all residential zoning districts shall be required to provide the buffering required for the most intensive use permitted in that zoning district. Landscaping of speculatively graded sites in all residential zoning districts shall, at a minimum, meet the minimum buffering requirements of the city.

The timing of when a developer can obtain a grading permit for any project shall be revised. The revision would require the site plan to be reviewed by planning staff prior to the installation of any erosion control measures, grading, or vegetation removal to assure compliance with the landscape requirements.

Reviewing a plan prior to grading would allow staff to suggest ways of preserving existing trees which could be used to fulfill buffer and landscape requirements. There is a provision in the current landscape ordinance that currently allows this. It states: "A plan to preserve existing trees shall be submitted for approval by the Director of Planning before the issuance of a provisional grading permit." Preserving trees to meet buffer and landscape requirements would reduce erosion, provide a more significant buffer, reduce objections from neighboring residents, and could save the developer money. The staff can also advise the developer where new plants are required to be planted. Other concerns about the site plan could be addressed before it is too late to do anything about it. The staff can also advise the developer if the proposed use is allowed before the site is graded."

Councilman Moore moved to adopt the above policy issue addressing speculative grading. This motion was seconded by Councilman Worley and carried unanimously.

F. ADOPTION OF THE BOND ORDER AUTHORIZING THE ISSUANCE OF $1,300,000 STREET AND SIDEWALK BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

City Manager Bean said that this bond order was introduced on April 27, 1993, and this action adopts that bond order.

Councilman Moore moved to adopt the streets and sidewalks bond order. This motion was seconded by Councilman Worley and carried unanimously.

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 27, 1993

B. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO AMENDMENT TO THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE

C. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR COGBURN DERMATOLOGY

D. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR THE WINSTON PULLIAM DEVELOPMENT

E. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO ZONING SECTION I AT BRAESIDE TO R-1 RESIDENTIAL DISTRICT, SUBJECT TO THE WATERSHED PROTECTION OVERLAY DISTRICT

F. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO ZONING THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL PROPERTY AT WESTRIDGE MARKET PLACE TO CH COMMERCIAL HIGHWAY DISTRICT

G. MOTION SETTING A PUBLIC HEARING ON JUNE 15, 1993, RELATIVE TO BINGHAM HEIGHTS/RICHMOND HILL EXPANSION INTO THE EXTRATERRITORIAL JURISDICTION AND THE ZONING OF THE EXPANDED AREA

H. RESOLUTION NO. 93-61 - RESOLUTION REQUESTING MODIFICATION OF PROPOSED LEGISLATION AFFECTING THE RECREATION AND NATURAL HERITAGE TRUST FUND AND ESTABLISHING A PARK FUND IN NORTH CAROLINA

Summary: The 1991 session of the General Assembly enacted a bill that increased the excise tax on land transfers by $1 per thousand with the understanding that the

money would be used for the acquisition and improving parks and recreation facilities in North Carolina. Because of the shortfall of state funds, 85% of the revenues were placed into the General Fund. This year, the revenues are to go into a fund for state parks. This resolution would modify this proposal to the extent that 15% would be used for land acquisition with significant heritage value, 45% would be used for local park acquisition and development and 40% of the funds would go for state parks. This proposal has been introduced in the form of Senate Bill 733, and this resolution is support for SB733.

RESOLUTION BOOK NO. 20 AT PAGE 168

I. **RESOLUTION NO. 93-62 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SECOND AMENDMENT TO THE AIRPORT AGREEMENT AND A LEASE AGREEMENT NO. 1 TO THE AIRPORT LEASE**

Summary: The Airport Agreement and Lease entered into pursuant to the Airport Agreement provide for the lease from the City to the Airport Authority of a specifically described piece of property. The Airport Authority has acquired additional properties in the name of the City which need to be added to the Agreement and the Lease. This resolution will authorize the Mayor to sign Amendments to the Agreement and the Lease incorporating those properties. The Amendment to the Agreement will further authorize future amendments to the Lease without the necessity of approval of the County.

RESOLUTION BOOK NO. 20 AT PAGE 170

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on May 5, 1993:

MEMORIAL MISSION IMAGING CENTER

Mr. Gerald Green said that the proposed development is located at Biltmore Avenue and Unadilla at the site of the old Newton School. The site is 5.7 acres and is flat except for a wooded ravine along the eastern portion of the site. The site is zoned Office-Institutional and the surrounding land uses include medical facilities to the north and west, a cemetery to the south, and a single-family housing neighborhood to the east.

The development request is for a 33,000 sq. ft., office building which will be two-stories high. Access will be off of Biltmore at Unadilla and the intersection is being redesigned to improve safety.

The hospital has met with the Kenilworth Neighborhood Association for over a year to work out an agreement on issues such as lighting and landscaping in order to minimize the impacts on the neighborhood. A 150-foot buffer with numerous mature trees will be preserved between the development and the neighborhood, and many additional trees will be planted along the top and bottom of the slope to provide an effective buffer.

The Kenilworth Neighborhood Association and the Community Foundation's Cemetery Committee have submitted letters supporting the proposed development. The project meets all requirements of the Asheville Zoning Ordinance. At their May 5, 1993, meeting, the Asheville Planning and Zoning Commission recommended approval of the plan with one condition which is that the developer must obtain a letter for wastewater allocation from MSD.

Upon suggestion of Councilman Swicegood, Mayor Michalove said that he would write a letter to Memorial Mission Hospital to see if they would repair the sidewalk below the parking deck construction as soon as possible.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

ST. JOSEPH'S AMBULATORY CARE CENTER

Mr. Green said that the proposed development is located between Biltmore Avenue and McDowell Street, off Victoria Road. The proposal is for a 64,000 sq. ft., three-story outpatient medical building and a six-level parking garage

for 561 cars. The site is zoned Office Institutional and the surrounding land uses are medical facilities and single-family housing to the north and south, and medical offices to the east and west.

Access will be off of Victoria Road, Brooklet, and McDowell Streets. The hospital plans to widen the section of Hamilton Street near Brooklet Street and has petitioned the Public Works Dept. to formally close the alley near the existing medical building.

The project meets all requirements of the Asheville Zoning Ordinance. At their May 5, 1993, meeting, the Asheville Planning and Zoning Commission recommended approval of the plan with one condition which is that the developer must obtain a letter for wastewater allocation from MSD.

Council accepted the report of the Planning & Zoning Commission, thereby approving the project by taking no action.

B. CLAIMS

City Manager Bean said that the following claims have been received by the City of Asheville during the week of April 26-30, 1993: Allstate Insurance (Streets), Meryle E. Garr (Civic Center), James Potts (Sanitation), Autohaus of Asheville (Traffic Engineering), Carolyn Shotwell (Water), Tonya Jones (Police) and Otis McIntosh (Water).

He said the following claims have been received by the City of Asheville during the week of May 3-7, 1993: Warren Wilson College (Water), R. L. Bailey (Water) and River Dyeing/Finishing (Water).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 8:35 p.m.

William D. Wolcott, Jr. — CITY CLERK

H. M. Michalove — MAYOR

Tuesday - May 18, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Charles Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 23-29, 1993, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Michalove proclaimed the week of May 23-29, 1993, as "Emergency Medical Services Week" and presented the proclamation to Fire Chief John Rukavina.

B. RECOGNITION OF RITA BROWN'S 7TH GRADE CLASS FROM ASHEVILLE MIDDLE SCHOOL

Mayor Michalove recognized a 7th grade class from Asheville Middle School and their teacher, Ms. Rita Brown.

C. RECOGNITION OF FIRE CAPTAIN TOMMY BROOKS FOR RECEIPT OF THE GEORGE MEANY MEDAL

Mayor Michalove recognized Fire Captain Tommy Brooks for receipt of the George Meany Medal.

Fire Chief Rukavina explained that Captain Brooks is very active in the Daniel Boone Council of Boy Scouts of America and recently he has been presented with the BSA's "Silver Beaver Award," a very high honor. He has most recently been named a recipient of the George Meany Medal (one of only 156 in the United States to date) for his combined roles of Asheville firefighter and Boy Scout leader.

II. PUBLIC HEARINGS: None

ANNOUNCEMENT - SOUTHERN BASKETBALL CONFERENCE

Mayor Michalove announced that the City Council unanimously decided that the 1996 Men's Southern Conference Basketball Team be pursued by the Sports Committee. He said the City's provision is that no financial liability be on the City and the Mayor and the Sports Committee are authorized to negotiate that contract.

III. OLD BUSINESS:

A. SECOND READING OF ORDINANCE NO. 2025, AN ORDINANCE TO REZONE PROPERTY AT 570-582 HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove said that this ordinance passed on its first reading on May 11, 1993. He said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 5-2, Ordinance No. 2025 passed on its second reading, with Councilwoman Field and Councilman Moore voting "no."

Councilwoman Field explained that her negative vote was because the Hendersonville Road Corridor Plan has not yet been adopted.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2025. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 5-2, Ordinance No. 2025 passed on its third and final reading, with Councilwoman Field and Councilman Moore voting "no."

ORDINANCE BOOK NO. 13 AT PAGE 220

IV. NEW BUSINESS:

A. REPORT FROM CONSULTANTS ON THE DISPARITY STUDY

Research and Evaluation Associates, Inc., gave a brief presentation regarding the City's Minority Business Disparity Study, including, but not limited to, what a disparity study is, the components involved in a disparity study and the type of support and assistance needed from the City Council.

Upon inquiry of Vice-Mayor Ellison, Dr. Peggy Richmond said that after the study is completed, recommendations will be presented to the City Council for possible revision to the Minority Business Plan. She stated that the plan is anticipated to be completed in September of 1993.

Dr. Chuck Lawrence, President of the Black Business and Professional League, spoke in support of the study stating that it would benefit the City as a whole.

Ms. Marilyn Bass, Minority Business Plan Coordinator, stated that two public hearings would be held for input into the study - June 8, 1993, at 7:00 p.m. (place unknown at this time), and June 29, 1993, at 7:00 p.m. in the Civic Center.

B. PRESENTATION OF THE 1993-94 ANNUAL OPERATING BUDGET AND SETTING A PUBLIC HEARING ON THE BUDGET FOR JUNE 8, 1993

City Manager Bean presented the 1993-94 Annual Operating Budget and summarized the following budget message:

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, the recommended budget for fiscal year 1993/1994 is presented for your consideration. This budget contains adequate revenues to meet expenditures while continuing essential city services for the coming year. The following summary shows the proposed budget for each fund along with a comparison of the budget for fiscal year 1992/93.

FISCAL 1993/1994 *OPERATING SUMMARY*

	ACTUAL	APPROVED	ESTIMATED	PROPOSED
	1991/92	1992/93	1992/93	1993/94
GENERAL FUND	41,462,928	41,913,359	40,610,793	42,789,359
ENTERPRISE FUNDS:				
WATER OPERATIONS	15,395,445	16,200,000	15,232,535	15,479,200
PARKING SERVICES	1,741,067	907,790	921,453	939,798
ASHEVILLE TRANSIT	2,026,361	2,085,100	2,085,100	2,096,100
CIVIC CENTER	1,565,493	1,638,410	1,793,468	1,849,573
FESTIVALS	757,887	1,085,400	790,357	756,840
TOTAL ENTERPRISE FUNDS	21,486,253	21,916,700	20,822,913	21,121,511
LESS:INTERFUND TRANSFERS	-3,957,526	-3,383,353	-3,539,073	-3,566,848
TOTAL OPERATIONS	58,991,655	60,446,706	57,894,633	60,344,022
INTERNAL SERVICE FUNDS:				
INFORMATION SERVICES	2,071,693	2,356,016	2,336,521	1,993,865
PRINT SHOP	339,698	303,136	318,682	301,104
CITY ENGINEERING	663,780	888,753	738,173	787,417
FLEET MANAGEMENT	3,115,945	2,711,307	2,699,986	2,656,213
PURCHASING/STORES	675,767	635,757	599,901	632,485
TOTAL INTERNAL SERVICES	6,866,883	6,894,969	6,693,263	6,371,084

NOTE: INCLUDED FOR INFORMATION ONLY, CHARGES FOR THESE SERVICES ARE INCLUDED IN THE OPERATING FUNDS AS SERVICES ARE USED.

The above summary includes operating funds only. Not included in the summary are the ongoing capital projects funds that include the General Capital Reserve Fund, Street and Sidewalk Improvement Fund, Downtown Development Fund, Community Development Fund and other ongoing project funds. Each of these funds has ongoing budgets that were approved when the project was authorized. These funds do not need to be re-appropriated on an annual basis. Also, you will note in the statistical summary that Internal Service Funds are listed for illustrative purposes only. These activities provide a service to other departments and the actual expense is budgeted within the appropriate departmental budget. We have subtracted from the budget summary the amount of other interfund transactions that are included in the operating budgets.

The summary indicates a total operating budget decrease. This budget continues the constraints instituted with the economic slowdown in early 1990/91. A partial hiring freeze continues and, if adjusted for pay and inflation increases, this budget actually reflects a significant spending decrease. The combined effects of reduced sales tax growth and other economically sensitive revenues and the results of the decision by the General Assembly to "freeze" certain state shared revenues have put us in a position of little or no increase in resources. We are already experiencing decreasing service levels. *This budget is a "cut spending first" budget*, and without restoration of state cuts, combined with new revenue sources; we will most certainly be facing ad valorem increases or further service cuts.

GOAL SETTING

The primary objective in preparing this budget was to develop a plan of services to meet the City of Asheville's Mission Statement, *". . . to provide for the professional delivery of public services while being good stewards of public resources, in order to enhance the quality of life in Asheville and Western North Carolina."* This budget reflects, to the extent possible, the City Council's *"Strategic Plan"* which was developed by the City Council in January 1993. These goals and objectives along with the *"2010 Asheville City Plan,"* provide the city-wide directive for the management by objectives system. With the City Council setting city-wide goals and objectives and with the city budget being the instrument that allocates resources, we hope that objectives can be met on an organizational and individual basis. The goal setting process is an integral and essential element in budget preparation. The 1993/94 budget does not contain any service enhancements or service restorations that were proposed in departmental budgets. The operating budgets generally reflect the goals and objectives that have been set by the City Council. To the extent that service restorations or enhancements are needed to directly address some of the Council's goals and objectives, they will need to be evaluated in light of available resources.

BUDGET PROCESS

Preparation of the 1993/94 budget began in December when instructions were given to departments to develop a base budget that maintained the current hiring freeze and continues basic service levels. Within this base budget we are always striving for an increase in the quality of operations and we look, with a critical eye, at ways to do a better job with available resources. "Service Restorations" and "Service Enhancements" were requested separately and are omitted from the base budget. Departmental budgets were reviewed in detail by the Audit & Budget staff prior to my review with each department head. Prior to the City Council's work sessions, we realized that this budget would be one of the most difficult that we have had to face in a number of years. Because of this problem, the budget process focused on "fine tuning" all revenue and expenditure data. This "hard look" required us to meet on several

occasions to find ways to reduce costs even if it meant a reduction in service levels. Throughout the budget process we have strived to improve the utilization of the City's existing resources in order to meet the increasing demand for city services.

BUDGET FORMAT

Each fund listed in the operating summary, along with capital project funds, are accounted for on a self-supporting basis. Where appropriate, earmarked revenues and user charges are used to fund related expenditures. The enterprise funds (Civic Center, Water Operations, Festivals, and Parking Services) listed above are primarily supported by user fees or dedicated revenues. The Transit Fund, while accounted for as an enterprise fund, requires a substantial federal and local tax subsidy. General government services are funded primarily from state and local tax sources. Where possible, services provided by one fund to another fund are accounted for on a cost recovery basis so that the true cost of operations can be reflected in the operating budget. The Stormwater Maintenance Division was established for 1990/91 in the Public Works part of the General Fund and still does not have a separate revenue source. It is still the plan to establish a stormwater utility fee and remove the cost of this activity from the General Fund.

GENERAL FUND

The General Fund for 1993/94 reflects an increase of 2% over the 1992/93 budget. This increase can be accounted for entirely in the increase in salaries and wages resulting from the carry forward effect of the 1992/93 Pay package and the budgetary increase in the group health line item.

Revenues: The major source of revenue (41% of the total) to the General Fund is the *Ad Valorem Tax*. The 1993/94 budget maintains a tax rate of 60 cents per $100 of valuation. This is the same tax rate that was set for the 1990/91, 1991/92 and 1992/93 budgets. We anticipate receiving $16,925,000 from Ad Valorem taxes compared to $16,478,829 for 1992/93. This is based on an assessed valuation of $2.9 billion and reflects 3% growth.

The second largest revenue source in the General Fund (16.8% of total revenues) comes from *Local Option Sales Taxes*. These revenues have shown little increase since 1990/91. We are, however, estimating an increase of 5% for 1993/94. This revenue is down dramatically from double-digit increases experienced prior to 1990/91. This decrease is partially due to the distribution formula. The one cent Local Option Sales Tax is distributed back to counties based on point of sale. That tax is then distributed back to the units within the county based on tax levy. The two half cent local option taxes are distributed back to counties based on population. These taxes are, like the one cent, then distributed within the county units based on tax effort. Therefore, even though the majority of sales tax is actually collected within the city limits. The City's sales tax revenue is based on the relationship of its tax levy to the County's tax levy. Any time the County tax levy goes up, the City's share of sales tax distribution is reduced. The City's share for 1992/93 is only 22.2% of the total county receipt. The sales tax revenue is currently unrestricted as to use. The City dedicates 25% of one half cent tax to Wastewater Capital and 60% of one half cent to General Capital.

The third major source of revenue in the General Fund is state collected revenues. These revenues include the *Utility Franchise Tax, Beer and Wine Tax*, and *Intangibles Tax*. The *State Utility Franchise Tax* is based on gross sales from regulated railroads and utilities within the city limits. We expect to receive $2,837697 in 1993/94, which is a 9% increase. The *Beer and Wine Tax* revenue for 1992/93 is estimated at $268,116, which is an 8% increase.

The *Intangibles Tax* is estimated at $1,077,275 which is a 10% increase. These revenues have, for a number of years, been a steadily growing source for city's to fund general operations. In 1990/91 the growth of these revenues was frozen by the General Assembly and kept for the state budget. On the basis of normal growth this action has had a cumulative effect of $1.7 million on the budget through 1992/93. There is currently a bill in the General Assembly to "unfreeze" growth in these revenues to local governments. Should that bill not be approved, the 1993/94 General Fund revenues will be over stated by $358,601.

Another major source of revenue in the General Fund is the *Inventory Tax Exclusion Reimbursement* which is budgeted at $1,195,776. This state-shared revenue was created to take the place of the loss in Ad Valorem revenue due to the repeal of the inventory tax. It is also frozen.

The *Powell Bill* allocation is budgeted at $1,777,099. During 1990/91 we experienced a 16.65% increase resulting mainly from the increase in state sales tax on gasoline. Since 1990/91 we have seen only a total 1% increase in this revenue. This lack of growth is due to reduced gasoline consumption and a decrease in Asheville's share resulting from annexation growth of other cities. Unfortunately, we have continued to reduce our contribution of Powell Bill funds to the Street and Sidewalk Fund. Our Capital Improvements Plan and Five Year Budget originally called for 100% of Powell Bill funds being transferred from the General Fund and used for street and sidewalk improvements. On the basis of the severe problems that we are facing in the General Fund, the allocation is held at the current 20% level. This reduction reflects a savings to the General Fund of $1,421,679. Even though this is a savings to the General Fund, it does have a detrimental effect on the Street and Sidewalk Fund and if an additional source of revenue is not found, there is only funding for two years of additional street and sidewalk rehabilitation.

The 1993/94 budget anticipates receiving $1,500,000 from Buncombe County for *Law Enforcement Reimbursement* as called for in the Water Agreement. This item is subject to re-negotiation for the 1993/94 budget year.

ABC Revenues are budgeted at $550,000 or slightly less than we expect to receive in 1992/93.

Mass Transit Funding is expected to be $702,641, the same as 1992/93. The City subsidy to the transit system is proposed to be $813,459 or 54% of the net operating cost of the system. This holds Transit funding at 1992/93 levels and will require some service reductions.

In the 1992/93 budget, $1,193,221 of fund balance was originally appropriated in order to provide sufficient revenue to meet anticipated expenditures. We anticipate that by the end of this year, due to significant reductions in operating costs and savings from the hiring freeze, that only $65,767 will be needed to meet operating costs. It is estimated that available fund balance for appropriation, after we have met the requirements of our Fiscal Policy, will be $1,263,741. In order to balance the General Fund Budget, we have appropriated $1,046,687, leaving a balance of $217,054. We generally do not like to budget in any one year more than 50% of the available fund balance. At this point there is no alternative to balance the General Fund.

In summary, General Fund revenues have been severely impacted by the freeze in many state shared revenues, the slowed growth of sales tax revenue, loss of $180,000 Arts rent when the Asheville Arts Museum moved to Pack Plaza and the $1,000,000+ impact of several annexations still being in court.

Appropriations: General Fund appropriations for 1993/94 are $42,789,359 which represents an increase of 2%. There are no new programs or personnel in the General Fund budget. In order to balance the budget in the face of the revenue shortfalls we were experiencing, the following cuts were made in appropriations:

. Eliminated across the board pay increase (9%)	$1,764,000
. Personnel cuts over last three years	$1,000,000+
. Eliminated Performance Pay	$349,000
. Reduced line items: Fiscal 1992/93 and 1993/94	$2,294,062
. Continued dependence on Powell Bill	$1,421,679
. Eliminated Service Enhancements	$1,600,000

While we have not eliminated any essential city services, the public will continue to see the present reduced levels of services in such areas as brush pickup, leaf removal, pot hole repairs and other services.

PARKING SERVICE FUND

Parking Services is an enterprise fund with dedicated revenues. A General Fund subsidy is necessary to fund parking services.
Revenues: Parking revenues are estimated at $762,700, which is a continued increase. The Civic Center garage generates approximately $160,000 per year in revenues, the Wall Street garage $118,000 and Rankin Avenue garage $111,800 in revenues. Parking meter revenues are up over $60,000 since we began increasing rates and installing additional meters.

Appropriations: The refinancing of the parking garages' debt resulted in a reduction in debt service from $687,558 expended in 1990/91 to $346,205 estimated for 1993/94. In addition, the operating cost for parking services has been reduced by $163,494 since 1991/92. The combination of increased revenues and decreased cost have created a reduction in the General Fund subsidy by a total of $503,131 since 1991/92. The subsidy required for 1993/94 will be $177,098.

CIVIC CENTER FUND

The City's Fiscal Policy states that the General Fund subsidy to the Civic Center shall not exceed 10% of operating cost in any fiscal year. It is anticipated that the General Fund subsidy for the 1993/94 budget year will be $90,677 which is only 4.9% of operating costs, well within our stated policy.

Revenues: The major revenue for the Civic Center comes from charges for services which amount to $1,718,500. The reduction in the Art Subsidy from Buncombe County from $217,034 to $38,896 is reflected. This subsidy was a provision of the Water Agreement to reimburse the City for space occupied by the Art and Mineral Museums. Since the Art Museum and Colburn Mineral Museum have moved to Pack Place, we are receiving rent only for Symphony space. The Civic Center Commission has increased rental rates during 1992/93 and will direct scheduling to more commercial, profit generating events. In addition, the Civic Center Commission is exploring ways to use the space vacated by the Art and Mineral Museum for additional revenue.

Appropriations: The Civic Center fund estimated expenditures of $1,849,573 is an increase of $211,163 almost all of which is from an increase in the Promotion budget which is offset by revenue from promoted events. The remaining operating budget is up only $7,913. To accomplish this we will operate at lower staffing levels and lower building services. The Civic Center Commission has indicated that the lower staffing levels is resulting in excessive overtime and decreased service.

FESTIVALS FUND

All of the direct costs associated with festivals are included in a separate enterprise fund. The $756,840 budget is fully supported by revenues generated from the two major festivals: "Bele Chere" and "Light Up Your Holidays."

Revenues: Revenues from "Bele Chere" basically come from three sources: ticket (token) sales, $487,640, sponsors, $125,000 and rents and sales of "Bele Chere" items, $85,000. "Light Up Your Holidays" generates revenues of approximately $59,200 with $30,000 of that amount coming from sponsors and $29,200 from other revenues.

Appropriations: Approximately one-half of the total appropriation goes to pay vendors through the token system and for entertainment. Another major expenditure is in the area of "purchases for resale" of Bele Chere items and refreshments. Effective for 1992/93 the festival coordinator position and a part-time assistant are funded in the Festivals Fund. Profits are used for Downtown projects such as production of a map and calendar, a banner and bracket system and a new stage. The approval of any Downtown projects will be submitted to City Council after the results of the 1993 Bele Chere festival are known.

WATER FUND

In accordance with the Water Agreement, the Asheville-Buncombe Water Authority's annual budget must be approved by both the City of Asheville and Buncombe County. The budget presented to you from the Water Authority is $15,479,200. This amount is $720,800 less than the 1992/93 funding level. This reduction reflects the reorganization resulting from a management and operations study conducted by the Nielsen-Wurster Group, Inc.

Revenues: The major source of revenues is utility charges. No increase in water rates is included for 1993/94. The other significant revenue source is for tap and connection fees.

Appropriations: The appropriations in the Water Fund are primarily in the area of maintenance, $4,231,844, water production, $2,035,579, customer services, $1,423,177 and debt service, $2,215,400. Other expenses include equipment purchases, in lieu of tax payments, cost allocation plan reimbursements, engineering services and transfers to capital funds.

CAPITAL FUNDS

The City of Asheville Capital Improvements Program (CIP) was updated for 1993/94 so that it continues to be a full six-year planning document. Revenues are sufficient to support planned projects throughout the life of the plan. The 1993/94 budget reflects a continuation of funding for the sixth year of the CIP.

Revenues: A total of 13.5 cents of the city's tax rate is earmarked to fund capital improvements. This amount is divided between two main funds, the General Capital Reserves Fund and the Street and Sidewalk Improvement Fund.

General Capital Reserves Fund: 8.5 cents of the 60 cents' tax rate is used for general capital outlay. In addition to that amount, 60% of one of the half-cent sales taxes is also allocated to this fund.

Street and Sidewalk Improvement Fund: 5.0 cents of the City's tax rate is reserved to support the Street and Sidewalk Improvement Plan. In addition, a portion of the Powell Bill allocation is transferred annually to this fund. The current year allocation is at 20%. The initial plan called for a 20% increase in the Powell Bill allocation to this fund, phased into the Street and Sidewalks Fund over a 5 year period. However, continued "no growth" in General Fund revenues made it difficult to eliminate that fund's dependency on this money. Therefore, it is now proposed that this fund receive a contribution of Powell Bill money at the 20% level throughout the entire planning period. However, an additional $200,000 is proposed for 1993/94 as a contribution from the General Capital Reserves Fund. In future years of the Street and Sidewalk Plan, this amount increases to $400,000 each year. Also, an additional $100,000 is shown each year as a contribution from the Wastewater Extension Fund. Further, the remaining $500,000 in General Obligation bonds authorized in 1986 and $1,300,000 in two-thirds rule bonds add a total of $1,800,000 in new money available to complete planned street and sidewalk reconstruction. Finally, a majority of the short-term savings which resulted from refinancing the Parking Garage debt is a revenue to this fund, along with interest earned, provide sufficient revenues to fund the 1993/94 projects planned in this program.

Wastewater Extension Fund: On November 21, 1989, a Sewer Consolidation Agreement was executed between all of the owners of wastewater collection systems in Buncombe County. That agreement called for the transfer of all sewer lines to MSD on July 1, 1990. Currently the City maintains a Wastewater Extension Fund which pays for our share (65%) of line extensions for annexation and/or for economic development purposes. In order to balance the Street and Sidewalk fund, revenues to this fund from the one-half cent sales tax has been reduced from 25% to 18% for 1993/94, for a total contribution of $283,300. However, this reduced amount along with the fund balance is still sufficient to support those annexations which have been planned for the next several years.

Community Development Fund: This fund is primarily supported with an annual grant allocation from the federal government. The projected amount of entitlement dollars and program income for 1993/94 is $1,493,000. The Community Development budget process runs concurrently with the City's budget process and this amount will be finalized when the grant application is approved for Community Development.

Appropriations:

General Capital Fund: The General Capital Fund appropriations are made from requests which are shown in the CIP. Most of the appropriations in this fund are for departmental equipment replacement, general maintenance and debt service on major building construction. The debt service for the replacement of the Public Works Facility is budgeted in this fund. Planning for the replacement/renovation of the Municipal Building began in 1992/93. However, since planned appropriations for this project have been cut by almost 55% in order to add revenues to street and sidewalk projects, it is unknown what type of renovations will be possible. Further cuts have also been made

within departmental budgets in order to reduce planned expenditures by $200,000 in 1993/94 and by $400,000 in each of the out years of this fund.

Street and Sidewalks Program: Since December 1987, $19,500,000 of General Obligation Bond's have been issued, of which $16,500,000 are to be used exclusively for street, sidewalk and stormwater rehabilitation. The remaining $3,000,000 make up the City's share of the cost of construction of the Pack Place Education, Arts and Science Center. Virtually all sidewalk replacement is complete and we will now complete our last 2 major contracts to repave and reconstruct streets. Construction for these contracts should begin in the summer of 1993. In addition to street and sidewalk work, the city's share (20%) of the bridge replacement program and major equipment for our ongoing street maintenance program are also appropriated in this fund.

Wastewater Extension Plan: The consolidation agreement with MSD calls for the City of Asheville and MSD to split the cost of extensions for annexations that were planned at the time the agreement was signed. The City's share of this cost is 65%. Even with reduced revenues, the Wastewater Fund has ample funds to pay for all extensions in areas where annexation ordinances have been adopted.

Community Development: The Community Development Fund reflects the City's continued commitment to these programs. This year it is recommended that an appropriation of $225,500 be made for the Hill/Cherry Streets "Head of Montford" Program. In addition, $320,000 is appropriated for the continued support of the city-wide housing rehabilitation program, $387,536 is earmarked for other rehabilitation projects including the HOME program and $23,000 for the South Pack Square Redevelopment project. The sum of $294,350 is budgeted to pay for the administrative cost of the Minority Business Development and Community Development offices, Community Development planning and a Minority Business Disparity study during 1993/94.

PERSONNEL

The City of Asheville is a service organization. We exist only to provide services to the public. Those services are provided through our employees. Our employees are the most valuable asset to our organization and to the community. It should not come as a surprise that more than one-half (55%) of the City's operating budget is for personnel-related expenses. It is incumbent upon us to manage this resource in such a manner as to provide fair and equitable pay policies, benefits that are commensurate with those given in other businesses in our area and a working environment that encourages pride in self, pride in work and pride in community.

Positions: In the 1990/91 and 1991/92 budgets there were approximately $700,000 of personnel items cut. This was accomplished through delaying the filling of positions, eliminating positions, reducing overtime and reducing other various personnel costs. The 1992/93 budget does not restore any of these 31 positions that have been eliminated. The effect of the hiring freeze on the General Fund is $515,000.

As mentioned earlier there have been impacts on our response to service requests and in the quality in some services that we provide. We are dedicated to becoming more efficient in our organization and to provide essential services at the highest possible level, given the resources that are available.

Compensation: The adoption of a new pay plan in 1989/90 called for the philosophy that a total compensation package should be developed that recognizes the market value of work performed by City employees, long time loyal service to the City and quality of work. Our compensation package that met these goals contained three elements.

1. Pay Plan Adjustment. In previous years, a salary survey was conducted of other public and private employers, so that our salary ranges could remain competitive. Based on that survey, ranges were adjusted, funds were appropriated to place people on the appropriate range and across the board increases were granted. The current survey recognizes that the City's pay plan is approximately 9% below market. The staff recommends a five percent across the board increase based on the survey results and the fact that there has not been such an adjustment since 1990. Due to budget restraints, this portion of our compensation package is not funded.

2. Merit Pay Plan. A reduced Merit Pay Plan is recommended for the 1993/94 budget with a total estimated cost of $349,000. This would be the sixth year a merit pay plan system has been in place. The recommended merit pay plan would be as follows:

Unsatisfactory	0%
Standard	1.5%
Above Standard	3%
Outstanding	5%

All employees are evaluated on their anniversary date and would be eligible for these levels of merit pay. Employees who are not performing at their job level would receive no pay increase but would be reevaluated in six months to determine if their performance has improved. A merit pay plan structured in this manner is essential to provide incentives to employees and to provide a method to fully integrate our MBO system down to the individual employee. This portion of the pay plan also is not funded.

3. Longevity - A longevity pay plan was adopted in the 1989/90 budget. This plan was also recommended by the consultants who developed our classification pay plan. This concept recognizes the value of those city employees who have exhibited loyalty and dedication to the City for a long period of time. A very modest continuation of the longevity pay plan is proposed for 1993/94 at a cost of $108,875 which is funded. Longevity is paid to all eligible employees who are employed as of December 1, 1992. The payment is based on years-of-service and is given in a lump sum amount in early December. (This amount is omitted from an employee's base pay.) The proposed schedule, identical to the current year, is:

5 - 10 years	$100
10-15 years	$200
15-20 years	$300
20 or more years	$400

All of the above three elements are essential to a fair and equitable compensation package. We feel, however, that given available funds, the most important element is to continue the merit plan and to provide for some recognition of service.

Our survey indicates that since there has been no pay plan adjustment or across the board increases our package is getting further behind. At some point the cost to "catch up" will be substantial.

Group Insurance: The City cost of group health is for budget purposes showing a significant increase. This increase of $305,020 in the General Fund is caused by a reduction of the 1992/93 estimates to recover an over funded situation in our Group Health trust fund. Over the last three years the City has experienced only a 8.8% annual increase in group health costs. This is occurring even though other employers are seeing double digit increases. We believe this "savings" is in part due to the City's Wellness Program. During 1990/91 we implemented a comprehensive Wellness Program that included blood pressure checks, cholesterol screening and comprehensive health education. On January 1, 1990, a "Cafeteria Plan" of benefits was implemented for all full-time employees. This plan gives an "allowance" to all employees with which they can purchase the benefit package that is most suitable to them. With this allowance, employees can choose between several health insurance plans, dental plans and purchase additional life insurance. This program is an excellent benefit package to employees that has no additional cost to the City since any cost over and above the employee's allowance will be paid by the individual employee.

Quality Management (TQM): The City staff is dedicated to providing Quality Services. We are well on our way in beginning a journey with our "Legacy Of Excellence" program. We realize that "LX" is a long term process that demands a high level of commitment by our entire City staff, but the results can be dramatic. During the past year our Excellence program was developed along with an implementation plan. Approximately 80 employees have completed their training in group problem solving and 8 teams are now beginning their search for excellence in their work areas. By empowering our employees to identify areas for improvement using proven techniques it should result in improved customer and employee satisfaction with city services. It is incumbent on City Council and City Management to provide and atmosphere of support and recognition for our employees as they face the challenges and opportunities that will come from "Legacy of Excellence."

SUMMARY

As required by state law, I hereby present you a "balanced budget." While it is balanced, the City Council must consider the following shortcomings:

1) The General Capital Fund has been reduced by $2.2 million and the Wastewater Capital fund has been reduced by $600,000 to provide an additional appropriation of $2.8 million for street construction contracts.

2) All outside agencies are being held to current funding levels.

3) There are no service "betterments" included for 1993/94.

4) After putting aside the 15% reserve as required by our fiscal policy we have appropriated 83% of available fund balance.

5) There remains significant concern over several revenue sources such as local franchise taxes and state shared taxes.

6) This budget does not meet the needs of the City's most valuable resource-it's employees. The budget process should not place employees last in priority.

City Council will need to address these issues during its deliberations over the next few weeks. The preparation of a budget involves a great many people. Department and division heads should be congratulated on the responsible budgets they prepared and the dedication they displayed in making significant cuts in their operations. In addition to their work on this year's

budget, much of the success in holding expenditures to a minimum is due to the work of the department and division heads in their day-to-day operations. Their participation in cost saving programs and their willingness to try new and innovative ideas are an indication of their high level of professionalism. I would like to thank not only these department heads, but also the administrative staff who worked very hard assembling the budget. The Audit & Budget Department, Vicki Heidinger, Debbie Messer, and especially the director, Bob Wurst, should be commended for their hard work and dedication to the budget process. I would also like to give special thanks to the entire City Council who give many hours of their time reviewing this budget. Your input during the preparation of this budget is essential to continuing the philosophy of providing the highest level of services at the lowest possible cost.

Councilman Peterson felt that the entire City needed to have a study done similar to the study done in the Water Department as it relates to salaries of the employees.

Upon inquiry of Vice-Mayor Ellison, City Manager Bean said that a full report regarding the 15% reserve issue will be provided to the Council at their next budget meeting.

Mayor Michalove stated reasons why he felt there might need to be a possible 3-5% tax increase.

Councilman Moore moved to set a public hearing on June 8, 1993, relative to the 1993-94 Annual Operating Budget. This motion was seconded by Councilwoman Field and carried unanimously.

C. **RESOLUTION NO. 93-63 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF $1,300,000 STREET AND SIDEWALK BONDS, SERIES 1993A AND $500,000 STREET AND SIDEWALK BONDS, SERIES 1993B OF THE CITY OF ASHEVILLE, NORTH CAROLINA**

City Manager Bean said that on April 6, 1993, City Council directed the Finance Director to apply to the Local Government Commission for the issuance of $1,300,000 Street and Sidewalk bonds using the two-thirds rule. On April 13, 1993, the Local Government Commission gave conditional approval pending letters from paying agents verifying the principal payments on existing bonds during Fiscal Year 1993. On April 27, 1993, City Council approved a resolution calling for a public heraing regarding a Bond Order introduced that date. The public hearing was held on May 11, 1993. This resolution provides for the issuance of those bonds.

Additionally, on September 23, 1986, the citizens of Asheville approved $17,000,000 in Street and Sidewalk bonds. $16,500,000 of those bonds have been issued to date. The authorization for those unissued bonds expires on September 22, 1993. This resolution provides for the issuance of the remaining $500,000 unissued bonds.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-63. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 171

D. **RESOLUTION NO. 93-64 - AMENDED AND RESTATED RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF $11,500,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1993C OF THE CITY OF ASHEVILLE, NORTH CAROLINA**

City Manager Bean said that City Council passed a resolution on November 3, 1992, providing for the issuance of these bonds. Since time has elapsed without issuance and since additional payments have been made on the bonds being refunded, it is necessary and desirable to amend and restate the original resolution.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-64. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 182

E. **RESOLUTION NO. 93-65 - RESOLUTION AUTHORIZING THE MAYOR TO NOTIFY THE WESTERN NORTH CAROLINA AIR POLLUTION CONTROL AGENCY OF THE CITY OF ASHEVILLE'S INTENTION TO TERMINATE AN AGREEMENT DATED JUNE 17, 1986, RELATING TO DELIVERY OF MECHANICAL CODE ENFORCEMENT SERVICES IN THE CITY OF ASHEVILLE**

Assistant City Manager Charles Penny said that for a number of years Western North Carolina Pollution Control Agency (hereinafter "Agency") has provided mechanical code enforcement services for the City. But last year's "building permit process review committee" recommended that the City resume responsibility for mechanical code enforcement. This resolution requires 30 days' notice to the Agency and the adoption of this resolution would authorize that notice. Since the Agency's mechanical inspection program is fee-supported, the City would adopt the same fee system to support two mechanical inspectors and related costs.

Mr. Bob Welborn, representing the Agency, said that the "fee-supported" aspect is not quite accurate. He stated that in 1991, $135,000 was brought in from mechanical inspections; however, $275,000 was the amount needed to operate the program. He said that the Environmental Protection Agency picked up the difference.

Mr. Penny clarified that a number of issues needed to be worked out and he would present the details to the Council on June 8, 1993. He stressed that in order to give the 30 days' notice to the Agency prior to July 1, 1993, the resolution of intent to terminate must be adopted at this meeting (next Council meeting is not scheduled until June 8, thus not being able to meet the 30 days' notice requirement).

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-65. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 AT PAGE 190

F. ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE, REGULATING STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

City Attorney Slawter said that this ordinance will authorize the City Manager, or his designee, to execute an encroachment agreement without complying with the provisions of the current encroachment ordinance when the structure is an existing structure and has been in existence within the public right-of-way for a period of at least 20 years prior to the date of adoption of this ordinance.

After a brief discussion, it was the consensus of Council to review each individual case separately in order to determine whether or not to enter into an encroachment agreement with property owners for structures on the City's right-of-way.

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 11, 1993.

B. MOTION SETTING A PUBLIC HEARING ON JUNE 8, 1993, RELATIVE TO THE TRANSIT OPERATING ASSISTANCE GRANT.

C. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO THE ADOPTION OF THE BILTMORE VILLAGE DEVELOPMENT PLAN.

D. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, TO AMEND THE ZONING ORDINANCE TO ESTABLISH CONDITIONS FOR CHURCHES AS CONDITIONAL USES IN THE R-1, R-2 AND R-3 RESIDENTIAL DISTRICTS.

E. MOTION SETTING A PUBLIC HEARING ON JUNE 15, 1993, RELATIVE TO APPROVAL OF THE SOUTH PACK SQUARE REDEVELOPMENT PLAN.

F. RESOLUTION NO. 93-66 - RESOLUTION FINDING THE GREENLEAF CIRCLE PROJECT COMPLETED, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON JUNE 8, 1993, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION BOOK NO. 20 AT PAGE 191

G. RESOLUTION NO. 93-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXTEND THE DATE FOR ACCRUAL OF LATE PENALTIES FOR BEER AND WINE LICENSES DUE DURING THE PERIOD OF MAY 1, 1993, TO APRIL 30, 1994

Summary: North Carolina General Statute sec. 105-113.70 grants local governments the authority to issue a license for the sale of beer and wine provided the applicant qualifies for a State license. The license is issued for the period from May 1 to June 30. Late penalties begin to accrue on licenses not renewed within 30 days of the expiration date. Renewal notices were not mailed until

April 30, 1993, (due to materials not received in a timely manner), therefore, late penalties for the license period May 1, 1993, to April 30, 1994, will not begin to accrue until June 1, 1993.

RESOLUTION BOOK NO. 20 AT PAGE 193

H. RESOLUTION NO. 93-68 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION FOR THE PURPOSE OF OBTAINING CERTAIN FEDERAL FINANCIAL ASSISTANCE UNDER THE DISASTER RELIEF FUND

Summary: This resolution will authorize the City Manager to execute documents necessary for application for and reimbursement from FEMA for snow cost.

RESOLUTION BOOK NO. 20 AT PAGE 194

I. RESOLUTION NO. 93-69 - RESOLUTION AUTHORIZING THE SALE OF FIVE SURPLUS PORTABLE RADIOS TO THE DANIEL BOONE COUNCIL, BOY SCOUTS OF AMERICA

Summary: In the course of making the transition from an old radio system to a new ultra-high-frequency radio system, the Asheville Fire Department identified five portable (hand-held) radios as surplus - they are in excess of 7 years old, and cannot be converted to continued use. The Daniel Boone Council has asked that these radios be donated for use for emergency at the Scouts' new camp, Camp Tatham.

RESOLUTION BOOK NO. 20 AT PAGE 196

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION AUTHORIZING THE HOUSING AUTHORITY TO SELL DISPOSAL PARCELS 58 AND 60 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

City Manager Bean said the proposed redeveloper is Julius Maxwell who owns the property adjacent to the subject property and it is his intention to combine the subject property with the property where he lives and maintain it as yard space.

The established price for the disposal parcels is $1,475 and that is the amount of Mr. Maxwell's bid. After advertisement in the paper, no upset bids were received.

Vice-Mayor Ellison moved to authorize the Housing Authority to sell disposal parcels 58 and 60 in the East End/Valley Street Community Improvement Program. This motion was seconded by Councilman Moore and carried unanimously.

B. RALPH BISHOP

Mr. Ralph Bishop spoke about corruption in the Police Department and the continued gambling in the City.

C. CLAIMS

City Manager Bean said that the following claims were received by the City during the week of May 10-14, 1993: Bill Byrd/Heilig Meyers (Water), Carol Deutsch (Water) and Nancy Furr (Community Development).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 5:40 p.m.

William S. Malcolm
CITY CLERK

W. H. Michalove
MAYOR

Tuesday - June 8, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Councilman Charles Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-70 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DAVID CRANDALL

Mayor Michalove read the resolution stating that David Crandall has been an employee for 20 years and has requested retirement from his position as Police Officer Sr. in the Asheville Police Department. He expressed City Council's appreciation to David for his service to the City of Asheville and its citizens.

Resolution No. 93-70 was adopted by acclamation.

RESOLUTION BOOK NO. 20 AT PAGE 198

B. PROCLAMATION HONORING PUBLIC SERVICE EMPLOYEES

Mayor Michalove recognized the following City of Asheville employees who are finalists in the Public Service Employee Recognition Program:

Outstanding Manager	-	Nanci Farmer
Outstanding Supervisor	-	Bill Fulp
Outstanding Professional	-	Debbie Faulkner
Outstanding Clerical	-	Gladys McDaniel
Equal Employment Opportunity Service	-	Marilyn Bass
Heroic Act	-	Judy Hensley
Hoyt Abney Award	-	Herbert Watts

II. PUBLIC HEARING:

A. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR THE CAROLINA MOUNTAIN DERMATOLOGY

Mayor Michalove opened the public hearing at 4:21 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

He explained that Carolina Mountain Dermatology is seeking approval of a proposed office development under the vested rights procedure. The site is located on Long Shoals Road near Overlook Road and is within the designated watershed area. While the property and all surrounding lots are zoned R-4 Residential District, commercial development abuts the property on the north and west sides.

He said the development consists of two one-story office buildings totaling 6,900 square feet. The proposed development meets or exceeds the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley was assured that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 4:26 p.m.

Councilman Worley moved to establish a statutory vested right for a site specific plan of a proposed office development, located on Long Shoals Road near Overlook Road. This motion was seconded by Councilman Swicegood and carried unanimously.

B. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR THE WINSTON PULLIAM DEVELOPMENT

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

He explained that Winston Pulliam is seeking approval of an office/retail development under the vested rights procedure. The site is located on Hendersonville Road near Oak Forest Subdivision and is within the designated watershed area. The property is zoned Commercial Highway and is bordered on the west by Hendersonville Road and on the north, south, and east by commercial development.

He said that Mr. Pulliam is seeking approval of two different schemes for the development. Scheme 1 consists of six, one-story office buildings totaling 23,868 square feet; while Scheme consists of a retail shopping center totaling 27,984 square feet. Both schemes meet or exceed the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley was assured that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 4:29 p.m.

Vice-Mayor Ellison moved to establish a statutory vested right for a site specific plan of a proposed office/retail development, to be located on Hendersonville Road near Oak Forest Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

C. PUBLIC HEARING RELATIVE TO CLOSING ATKINSON STREET, VIEW STREET AND HAZEL AVENUE

RESOLUTION NO. 93-71 - RESOLUTION CLOSING ATKINSON STREET, VIEW STREET AND HAZEL AVENUE

Mayor Michalove opened the public hearing at 4:30 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Public Works Director Jim Ewing stated that on April 27, 1993, the City Council adopted a resolution of intent to close Atkinson Street, View Street and Hazel Avenue and also requested the Housing Authority to consider changing the name of Atkinson Street to Carl Johnson Boulevard. This resolution will provide for the closing of those streets.

Mr. David Jones, Executive Director of the Housing Authority of the City of Asheville, said that he has sent a proposal to the residents at Hillcrest proposing the name change and has not received all responses yet. He did, however, foresee no problem with changing the street name.

Mayor Michalove closed the public hearing at 4:33 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-71. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 199

D. PUBLIC HEARING RELATIVE TO ZONING SECTION I AT BRAESIDE TO R-1 RESIDENTIAL DISTRICT, SUBJECT TO THE WATERSHED PROTECTION OVERLAY DISTRICT

ORDINANCE NO. 2027 - AN ORDINANCE PROVIDING FOR THE ZONING OF SECTION I OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

Mayor Michalove opened the public hearing at 4:34 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Planning Executive Assistant, said that the owners of Braeside I Subdivision have petitioned the City to annex the area located off Overlook Road. Annexation of the area is underway in accordance with the wishes of the owners.

He said the City's ordinances require that zoning be assigned to all annexed areas. On May 5, 1993, the Asheville Planning and Zoning Commission met and recommended that the R-1 Residential District zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public.

Mayor Michalove closed the public hearing at 4:37 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2027. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2027 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2027. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2027 passed on its second reading.

E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE

ORDINANCE NO. 2028 - ORDINANCE AMENDING APPENDIX A OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO INCLUDE WATERSHED PROTECTION REGULATIONS

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, stated that North Carolina General Statute sec. 143-214.5 requires local governments to develop water supply watershed protection programs; that the programs be implemented, among other ways, by a local ordinance; and that the N. C. Environmental Management Commission adopt rules for the classification of water supply watersheds and to establish minimum state-wide water supply watershed protection requirements. The Water Supply Rules adopted by the N.C. Environmental Management

Commission on February 13, 1992, require that municipalities with a population greater than 5,000, whose corporate limits include a water supply watershed, to adopt water supply protection management plans and ordinances by July 1, 1993. He then summarized the basic requirements.

Mr. Benson answered questions of Councilman Swicegood as to how the boundary lines were drawn.

Mayor Michalove closed the public hearing at 4:50 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2028. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-0, Ordinance No. 2028 passed on its first reading.

F. PUBLIC HEARING RELATIVE TO THE 1993-94 ANNUAL OPERATING BUDGET

Mayor Michalove opened the public hearing at 4:51 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

City Manager Bean stated that the proposed General Fund budget is in the amount of $43,526,791 for 1993-94, which includes a 2% pay adjustment for July 1, 1993, and a 3% performance pay plan. He said the budget is approximately $70,000 out of balance but is keeping the tax rate at the current level of 60 cents per $100 valuation. He further stated that staff is still working on the budget and plans to present the balanced budget to Council next week.

A representative of Kituwah urged the Council to support Kituwah in non-cash contributions; i.e., printing of posters and flyers, security during the event, closing a portion of Haywood Street during the event, special street vendor restrictions during the event, and assistance from Parks and Recreation with truck and manpower during the Monday and Thursday of Kituwah week.

Mayor Michalove instructed the City Manager to review the request and find out exactly what the City might offer in lieu of funds.

Mr. Scott Hughes, representing the Council of Independent Business Owners, presented Council with a memo which he summarized several areas of cost containment as follows: (1) Support pay raises for staff making less than $35,000 per year in base salary, and suggest that higher staff salaries be frozen for fiscal year 1993-94; (2) Sale of the renovated facility housing the Downtown Development Department be sold generating significant revenue; (3) Increase the efficiency of the concessions operations at the Civic Center or perhaps seek private bids for their operation; (4) Further analysis for possible reduction in staff in the Planning Department; and (5) Acceleration of the privatization of sanitation services.

Mr. Michael Knisely, Firefighter and President of the Asheville Firefighters Association, passed out an analysis concerning the pay of City employees. He urged the Council to consider employees as a high priority when considering the budget.

Councilman Worley felt that the entire Council was committed in bringing the pay back in line with what it should be but stated it would have to be brought back step by step.

Vice-Mayor Ellison stated that the Council was trying to get as much done with the money is has available and still not raise taxes.

Councilman Peterson felt that the City was top heavy in management and supported some type of plan to raise salaries for the lower paid workers.

At this time (5:30 p.m.), Vice-Mayor Ellison and Councilman Worley asked to be excused from the meeting to attend graduation ceremonies. Councilman Worley did state that he would listen to the tape to hear the remainder of this meeting. Councilman Peterson moved to excuse Vice-Mayor Ellison and Councilman Worley. This motion was seconded by Councilwoman Field and carried unanimously.

Mr. Glen Holbert, Captain in the Fire Department and Secretary-Treasurer of the Asheville Firefighters Association, urged Council to raise employee salaries.

Mayor Michalove closed the public hearing at 5:34 p.m.

Upon inquiry of Mayor Michalove, City Manager Bean said that for a 1% salary increase, the cost would be $194,000 and that is for the employees in the General Fund only.

Mayor Michalove stated that the Council will take into consideration all the statements made and incorporate them before the adoption of the budget on June 15, 1993.

G. **PUBLIC HEARING RELATIVE TO ZONING PROPERTY OF THE NORTH CAROLINA ABC BOARD LOCATED AT WESTRIDGE MARKET PLACE**

ORDINANCE NO. 2029 - AN ORDINANCE PROVIDING FOR THE ZONING OF THE NORTH CAROLINA ABC BOARD LOCATED AT WESTRIDGE MARKET PLACE (PIN 9617-13-13-4943)

Mayor Michalove opened the public hearing at 5:36 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Planning Executive Assistant, said that the North Carolina ABC Board petitioned the City to annex their property located at Westridge Market Place. City Council has annexed the area in accordance with the wishes of the owners. He said the ABC store, which is a retail package store, is allowed in Commercial Highway districts as a conditional use.

He said the City's ordinances require that zoning be assigned to all annexed areas. On May 5, 1993, the Asheville Planning and Zoning Commission met and recommended that the CH Commercial Highway zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public.

Mayor Michalove closed the public hearing at 5:38 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2029. This motion was seconded by Councilman Peterson.

On a roll call vote of 4-0, Ordinance No. 2029 passed on its first reading.

H. **PUBLIC HEARING RELATIVE TO THE TRANSIT OPERATING ASSISTANCE GRANT**

RESOLUTION NO. 93-72 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Michalove opened the public hearing at 5:39 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transit Planner, said that the City annually applies for financial assistance under the Section 9 program to aid in transit operations. He said the project will be for the period of July 1, 1993, through June 30, 1994. He estimated the net project cost at $1,504,900. The federal share is estimated at $702,641 and the City's share is estimated at $802,259. The Biltmore Square route has been cut for this period.

Mayor Michalove closed the public hearing at 5:43 p.m.

Mayor Michalove stated that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-72. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 201

I. PUBLIC HEARING ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION NO. 93-73 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE GREENLEAF CIRCLE PROJECT BEGINNING AT THE INTERSECTION OF GREENLEAF CIRCLE WITH BEAVER LAKE HEIGHTS ROAD AND ENDING AT THE DEAD END

Mayor Michalove opened the public hearing at 5:43 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that this resolution would confirm the preliminary assessments made in the Greenleaf Circle Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is $17,033.11. By prior resolution, Council has determined to assess benefited property owners 58% of the total cost ($9,940.15).

Mayor Michalove closed the public hearing at 5:45 p.m.

Mayor Michalove said members of Council had been furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 93-73 on June 8, 1993, at 5:45 p.m. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 203

J. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR WESTLAND SUBDIVISION

Mayor Michalove opened the public hearing at 5:46 p.m.

City Clerk William F. Wolcott Jr. presented the notice to the public setting the time and date of the public hearing.

Ms. Mary Weber, Urban Planner, said that the applicant is subdividing a .36 acre lot into two parcels. The site is located on Salola Street near Sand Hill Road. In 1991, the applicant went before the Board of Adjustment and obtained a variance from the minimum lot size requirement. Later, he obtained a building permit and began building the house. When he went to record the subdivision, the Register of Deeds sent him to the Planning Department to approve the subdivision.

She said that subdivisions that are smaller than two acres which are divided into not more than three lots do not have to go through the formal review process if they meet or exceed the standards of the municipality. One requirement is that all lots abut a public street. A public street is one which is built to City standards and maintained by the City. One lot abuts a public right-of-way which currently serves a neighboring house but is not built to City standards or maintained.

She said the applicant is requesting a variance from the requirement to abut a public street because it would create a hardship to widen and build the road to City standards in an existing developed neighborhood and because he had already obtained a building permit.

At their April 7, 1993, the Asheville Planning and Zoning Commission recommended approval of the variance request.

Mayor Michalove closed the public hearing at 5:48 p.m.

Councilman Swicegood moved to approve a variance from the requirement to abut a public street, as required by the subdivision regulations, in the Westland Properties Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL OF VALLEY VISTA SUBDIVISION

Ms. Mary Weber, Urban Planner, said that Valley Vista Subdivision will be located in Oakley at Onteora Boulevard and Floyd Drive in the City's extra-territorial jurisdiction. The site is 9.5 acres of gently sloping wooded terrain.

The site is being subdivided in two phases. The first phase will consist of five lots with a typical lot size of .5 acres. Later, the site will be further subdivided to have a total of 13 lots.

Access will be off of Floyd Drive which is a state-maintained road which NCDOT plans to widen and pave this summer. Adequate water supply and fire protection will serve the site. The subdivision is too far from any sewer lines, so the houses will use septic systems. The Health Dept. has done a preliminary assessment of the site and said it appears to be suitable for septic systems.

At their June 2, 1993, meeting, the Asheville Planning and Zoning Commission recommended approval of the preliminary plat.

Councilwoman Field moved to approve the preliminary plat of Valley Vista Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

B. MOTION AUTHORIZING THE CITY MANAGER TO SIGN AN ENCROACHMENT AGREEMENT WITH CARL AND ELIZABETH M. PEVERALL FOR PROPERTY ON WEST STREET

Public Works Director Jim Ewing explained that an encroachment agreement has been requested by Mr. Jan Grimes on behalf of his clients, Carl and Elizabeth Peverall. The Peverall's house encroaches upon the right-of-way of West Street. He said the encroachment has existed for a period of over 30 years and this encroachment agreement will allow for maintenance of the Peverall home. He said that the encroachment upon the right-of-way on West Street creates no undesirable or hazardous conditions.

Councilman Swicegood moved to authorize the City Manager to sign an encroachment agreement with Carl and Elizabeth M. Peverall for property on West Street. This motion was seconded by Councilwoman Field and carried unanimously.

C. **RESOLUTION NO. 93-74 - RESOLUTION ESTABLISHING ELIGIBILITY AND COST FOR RETIREE HEALTH BENEFITS UNDER THE CITY OF ASHEVILLE SELF-INSURED HEALTH PLAN**

City Manager Bean said that the City of Asheville has provided health insurance for its employees, retiree, and their families since 1964 and has been self-insured since 1983. Because of changes in federal law and in the City's plan for benefits, the need has arisen to establish new procedures and eligibility requirements for continuing health benefits following retirement from the City. In order to accomplish this, the four resolutions currently in effect must be rescinded and a new one effected. There will be no additional cost to the City and will save the City up to $471,000 over seven years.

Mayor Michalove said members of Council had been furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-74. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 208

V. CONSENT AGENDA:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 18, 1993.**

B. **RESOLUTION NO. 93-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR A TRAFFIC ENFORCEMENT UNIT GRANT WITH THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM**

Summary: At the present time, with a police department the size of Ashevilles, we are doing almost nothing with our traffic needs in the City. It is a haphazard method by using the officers on the beat whenever they can break free. The traffic enforcement unit will be able to obtain a great deal of special training that they can share with the other officers. The equipment will not cost the City anything

during the life of this grant and probably for a period of at least 4-5 years. This grant will be of a tremendous benefit to the citizens of Asheville and also an opportunity to add to the strength of the department in a very meaningful way. The matching part of grant is $46,500.

RESOLUTION BOOK NO. 20 - PAGE 212

C. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO AN AMENDMENT TO THE CIVIL SERVICE RULES AND REGULATIONS (RULE 3)

D. MOTION FOR FILING APPLICATION TO THE JUNIOR LEAGUE OF ASHEVILLE FOR ASHEVILLE'S URBAN TRAIL

Summary: The application seeks volunteer and financial support for parts of the Urban Trail.

E. RESOLUTION NO. 93-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND WASV-TV INC.

Summary: WASV-TV Inc. previously entered into a lease agreement with the City for the purpose of leasing space at the City's premises at White Fawn Reservoir, which lease agreement expired on or about November 1, 1989. The City has been negotiating with WASV-TV over the terms of a new lease agreement and an agreement for renewal has been reached.

RESOLUTION BOOK NO. 20 - PAGE 213

F. RESOLUTION NO. 93-77 - RESOLUTION REQUESTING MSD TO REHABILITATE THE SEWER LINE SERVING 16 WOODCREST ROAD AND 519 NORTH GRIFFING BOULEVARD

Summary: As part of the MSD agreement with the City dated November 21, 1989, MSD shall spend up to $200,000 in any one fiscal year for the take over and rehabilitation of private sewer systems. Projects will be addressed by MSD on a first come, first serve basis each year.

RESOLUTION BOOK NO. 20 - PAGE 214

Councilman Swicegood moved to adopt the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Bean said that the following claim was received by the City during the week of May 17-21, 1993: Southern Bell (Water).

He said the following claims were received by the City during the week of May 24-28, 1993: Al Powers (Sanitation) and Lydia Friedman (Streets).

He said the following claims were received by the City during the week of May 30 - June 4, 1993: Ray Gene Rector (Water), Jerry McKinney (Water), Grace Lindsey (Water), and Kathleen Ashley (Water).

He said these claims have been referred to the appropriate insurers for investigation.

B. GROUP AGAINST SMOKERS' POLLUTION

Mr. Michael Overman and Ms. Sheila Pratt, Coordinators of the Western North Carolina Group Against Smokers' Pollution, presented the Council with a smoking pollution control ordinance and asked that the ordinance be adopted prior to October 1, 1993. They presented the proposed ordinance in order to guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air should have priority over the desire to smoke.

The Coordinator of Project ASSIST (Americans Stop Smoking Intervention Study) also urged the Council to adopt the smoking pollution control ordinance, to be in effect prior to October 1, 1993.

Councilwoman Field spoke in support of the ordinance.

Mayor Michalove instructed the City Attorney to look at the proposed ordinance for possible adoption.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 6:12 p.m.

William S. Hoilett, Jr.
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - June 15, 1993 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Ellison gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION HONORING DAVE HOGAN AND WELCOMING HIM BACK TO ASHEVILLE

Mayor Michalove recognized Dave Hogan who has returned to Asheville for continuation of a very successful career in broadcasting as host of the Dave Hogan Good Morning Show on 1310 WISE and simulcast on 1600 WTZQ in Hendersonville.

B. RESOLUTION NO. 93-78 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE IDA MERRELL

Mayor Michalove read the resolution stating that Ida Merrell has been an employee for 36 years and has requested retirement from her position as Data Entry Clerk in the Collections Division of the Finance Department. He expressed City Council's appreciation to Ida for her service to the City of Asheville and its citizens.

Resolution No. 93-78 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 215

C. RESOLUTION NO. 93-79 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ROBERT SHOOK

Mayor Michalove read the resolution stating that Robert Shook has been an employee for 25 years and has requested retirement from his position as Sanitation Equipment Operator in the Sanitation Division of the Public Works Department. He expressed City Council's appreciation to Robert for his service to the City of Asheville and its citizens.

Resolution No. 93-79 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 216

D. PROCLAMATION PROCLAIMING THE HARVEST HOUSE TROUBADOURS AS THE PARKS AND RECREATION VOLUNTEERS OF THE YEAR IN THE CITY OF ASHEVILLE

Mayor Michalove read the proclamation proclaiming the Harvest House Troubadours as the Parks and Recreation Volunteers of the Year in the City of Asheville and presented each person with the proclamation.

E. RECOGNITION OF PARKS AND RECREATION DEPARTMENT FOR BEING SELECTED AS A PILOT AGENCY IN THE NATIONAL RECREATION AND PARK ASSOCIATION ACCREDITATION PROGRAM

Mayor Michalove recognized Ray Kisiah, Director of Parks and Recreation, and said that it was an honor that the City of Asheville Parks and Recreation Department has been selected as one of the 11 agencies throughout the United States which will serve as a Pilot Agency in the National Recreation and Park Association Accreditation Program.

Mr. Ray Kisiah briefed the Council on the program.

F. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING

City Manager Bean presented Finance Director Larry Fisher with the Certificate of Achievement for Excellence in Financial Reporting for Fiscal Year ended June 30, 1992. He said it is presented by the Government Finance Officers Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial reports achieve the highest standards in government accounting and financial reporting. He stated that this is the 13th year that the City has received this award.

Mr. Fisher briefed the Council on the reporting procedure and recognized City Accountant Pat Leckey and her staff from the Accounting Division as being instrumental in helping obtain this award.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO ANNEX A PORTION OF THE OTEEN II AREA

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, described the area and then briefly described the plan for services.

Upon inquiry of Councilman Swicegood as to whether Mayor Michalove had a conflict of interest in this matter, City Attorney Slawter stated that there was no conflict of interest for the Mayor. He stated that just because the Mayor works for the company that owns The Summit, that does not violate the conflict of interest statute.

Upon inquiry of Councilman Peterson, Mr. Benson stated that the Blue Ridge Parkway and the VA Hospital are the only tax exempt properties in this proposed annexation area.

Vice-Mayor Ellison questioned if the Blue Ridge Parkway was adequately notified of the proposed annexation.

Vice-Mayor Ellison moved to continue the public hearing until after appropriate notice has been given to the Blue Ridge Parkway. This motion was seconded by Councilman Worley and carried unanimously.

City Manager Bean said that during the community meetings, some very good questions arose which related to sanitation and street maintenance in mobile home parks. There has also been a request to delay action for one or two years and start the process over again with a delayed effective date of a year because some of the area has not been totally developed. He stated that the City staff has no problem if the Council wishes to delay action on this proposed annexation. He stated that if a delay occurred, it would give staff time to work out any issues at it relates to the Blue Ridge Parkway, the sanitation services, and also it would give time for the area to become more developed.

Because the proposed Beaverdam Run Condominium agreement regarding annexation that was entered into last year, City Manager Bean explained the circumstances surrounding that agreement in relationship to the request for delay in the Oteen II area.

Councilman Worley stated that he toured the proposed annexation area and was not convinced that the area was ready to come into the City. Therefore, Councilman Worley moved to stop the annexation of the Oteen II area with no date specific for further consideration. This motion was seconded by Councilman Swicegood.

Councilman Moore felt that an effective date should be set out in any agreement made in connection with a delayed annexation. He stated that he was not at all adverse to the two year delay, but because of a promise that the City made to the VA Hospital relative to payments for fire protection, he felt the City needed to first find out how that delay would affect the VA Hospital.

City Manager Bean stated that the City did not budget anything for the VA Hospital contract this coming year, in anticipation of the area coming into the City within the next few months. He did state, however, that he would be happy to go back to the VA Hospital to discuss some sort of contract for the upcoming year or so. He did state that this delay could result in a reduction of revenues on the part of the City.

Councilman Worley was opposed to setting any definite date for the annexation to come back up because he felt that the City could not predict when the area would be appropriate to annex due to the diversity of the community.

Councilwoman Field also questioned the City Manager relative to the discussions with the VA Hospital. City Manager Bean stated that the City's discussions with the VA Hospital are not contingent upon annexing any other property.

Mr. Art Anderson, Vice-President of the Scenic Mobile Home Park, asked for clarification on the tax issues and read a resolution from the President which opposed the annexation.

Mr. Michael Monoperto, owner of the Scenic Mobile Home Park, spoke in opposition of the annexation and stated that the main reason people live in mobile homes is because they are affordable. He felt that any increase in taxes would force people to move. He felt there were a lot of unanswered questions and asked for assurances relative to the City's zoning ordinance and fire code regulations.

At the request of Councilman Peterson, City Attorney explained the section of the zoning ordinance as it relates to mobile home parks and Fire Chief John Rukavina explained that fire regulations are identical outside and inside the City limits.

Mr. Harold Holcombe, homeowner in Riverknoll development, felt that the City would gain if the annexation would be delayed.

Ms. Jean Sales was assured that when the annexation process was started again that the same procedures would be followed.

Mr. Mike Summey, owner of six properties in the area, spoke against the proposed annexation and felt that the residents in the area (through annexation) are being asked to pay the fire protection bill for the VA Hospital.

Vice-Mayor Ellison moved to rescind his prior motion to continue the public hearing until after appropriate notice has been given to the Blue Ridge Parkway. This motion was seconded by Councilman Worley and carried unanimously.

At this time, the motion made by Councilman Worley and seconded by Councilman Swicegood to stop the annexation of the Oteen II area with no date specific for further consideration was voted on. This motion carried on a 6-1 vote, with Councilman Moore voting "no" because he felt there should be a specific date set for further consideration of this annexation.

B. PUBLIC HEARING TO ANNEX BEAVERDAM RUN AREA

Mayor Michalove opened the public hearing at 5:30 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, described the area and then briefly described the plan for services.

A resident in Beaverdam Run Condominiums had several questions relative to public streets versus private streets.

As a result of some discussion surrounding this annexation, City Manager Bean explained the steps which led to this delayed annexation and read a portion of the agreement signed last year by the President of the Beaverdam Run Condominium Association.

Mr. Michael Monoperto, resident in Beaverdam Run Condominiums, spoke about the need for Beaverdam Road to be widened and hoped that the City would be able to help with this aspect. City Manager Bean explained that even if a State-maintained road (which is Beaverdam Road) is annexed into the City, it still remains a State-maintained road. Councilwoman Field did state that Beaverdam Road was on the Transportation Improvement Plan's list of roads to be widened but there was no specific date set yet when that would occur.

Mr. Ralph Bishop spoke against annexation in general.

Mr. Edward Rutkowski, resident of Crowfields Condominiums, felt that it is the responsibility of every condominium owner to attend the monthly meetings of their association to protect their assets.

Mayor Michalove closed the public hearing at 6:00 p.m.

Mayor Michalove said that the City Council consider all the comments made at the public hearing today and schedule the first reading of this ordinance for June 29, 1993.

C. PUBLIC HEARING RELATIVE TO THE SOUTH PACK SQUARE REDEVELOPMENT PLAN

RESOLUTION NO. 93-80 - RESOLUTION APPROVING THE REDEVELOPMENT PLAN FOR THE SOUTH PACK SQUARE REDEVELOPMENT AREA

Mayor Michalove opened the public hearing at 6:01 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Executive Assistant in the Planning Department, said that the South Pack Square Redevelopment Plan was developed by a term of property owners, business owners, and interested citizens. The Plan has been approved by the Housing Authority, the Historic Resources Commission, the Downtown Commission, the Planning and Zoning Commission, and the South Pack Square Association. He said the total estimated cost is $6,322,900 - public: $2,342,000 and private: $3,980,000. He then went on to describe the boundaries and explain the process which led up to this plan.

Ms. Wanda Henry-Coleman, representative of the YMI Cultural Center, gave Council a brief background of the plan and urged the Council to support the plan and which will help this community's progress.

Mr. Mitty Owens, Coordinator of Economic Development for the YMI Cultural Center, spoke about the human resource and economic development part of the plan and how proud he was to have this plan to work with. He passed out the Eagle/Market Facade Design Guidebook.

Mr. Larry Holt, Deputy Executive Director of the Housing Authority of the City of Asheville, spoke about the

function of the redevelopment plan which is to lock in a plan so that they can work with residents in the area, and anyone interested in participating in the revitalization of this community, in bringing it back to its original position in terms of the cultural and historical area it once was.

There was some discussion by Council and Mr. Holt on the funding aspect of the plan. Council was assured by Mr. Holt that when specific projects are lined up, they will go to the banking community for loans and when public improvements are ready, they will come back to the Council for possible funding. Mr. Holt guaranteed Council that when money is requested for this plan that no money would be spent on the Pack Place Project - that the redevelopment will occur on the south side of Eagle Street. He stated that he would be happy to work with Pack Place in revitalizing the area, but not by using monetary resources.

Upon inquiry of Vice-Mayor Ellison, Mr. Holt explained that eminent domain procedures will only be used in last resorts in order to clear titles so that the owners can go to banks and obtain loans for improvements to their property. He explained that banks will not consider a loan for improvements until the land has clear title.

Mr. Ralph Bishop spoke against the use of eminent domain because he felt the City would use it to force the property owners in the area to sell.

Mr. Roy Harris urged the Council to adopt the plan.

Ms. Dee Williams, Business Development Officer for the Asheville-Buncombe Development Center, spoke against the redevelopment plan. She stated many concerns about residents who oppose the plan, and also concerns about the competence of the staff of the YMI Cultural Center. She urged Council to address quality issues.

Upon inquiry of Vice-Mayor Ellison, Mr. Owners stated that they have signed documents from all property owners in the Eagle-Market Street area that support the plan and the YMI Cultural Center, with the exception of Mr. Jones. He said that they would not know of any opposition to the plan unless the owners either verbally or in writing stated their opposition.

Vice-Mayor Ellison questioned what type of uses Mr. Jones would have with his property in the Central Business District.

Ms. Erline McQueen, owner of property in the Market Street area, spoke in support of the plan and hoped the area could be brought back to the beautiful are it once was.

Mayor Michalove closed the public hearing at 7:20 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman Moore moved for the adoption of Resolution No. 93-80. This motion was seconded by Councilwoman Field and carried unanimously.

Upon inquiry of Councilman Peterson, Mr. Holt assured him that any monies requested for the redevelopment would come before the City Council.

RESOLUTION BOOK NO. 20 - PAGE 217

D. PUBLIC HEARING RELATIVE TO THE BINGHAM HEIGHTS/RICHMOND HILL EXPANSION INTO THE EXTRATERRITORIAL JURISDICTION AREA

ORDINANCE NO. 2030 - ORDINANCE AMENDING SECTION 30-1-3 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (TERRITORIAL AND EXTRATERRITORIAL JURISDICTION OF ZONING ORDINANCE)

Mayor Michalove opened the public hearing at 7:23 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

By use of a map, Mr. Verl Emrick, Executive Assistant in the Planning Department, described the area pointing out that many property owners in the area experience some major drainage problems and staff is working with them to see if the problems can be resolved. He said that staff recommendations for this area includes the R-2 and R-3 zoning classifications. He outlined the properties recommended for the specific zones.

Mayor Michalove closed the public hearing at 7:34 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2030. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2030 passed on its first reading.

III. OLD BUSINESS:

A. **SECOND READING OF ORDINANCE NO. 2028, RELATIVE TO AMENDMENT OF THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE**

Mayor Michalove stated that the public hearing on this matter was held on June 8, 1993, at which time the ordinance passed on its first reading.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

On a roll call vote of 7-0, Ordinance No. 2028 passed on its second reading.

B. **SECOND READING OF ORDINANCE NO. 2029, RELATIVE TO ZONING OF THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL PROPERTY AT WESTRIDGE MARKET PLACE TO CH COMMERCIAL HIGHWAY**

Mayor Michalove stated that the public hearing on this matter was held on June 8, 1993, at which time the ordinance passed on its first reading.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

On a roll call vote of 7-0, Ordinance No. 2029 passed on its second reading.

C. **THIRD READING OF ORDINANCE NO. 2027, RELATIVE TO ZONING SECTION I OF BRAESIDE AT BILTMORE PARK TO R-1 RESIDENTIAL DISTRICT**

Mayor Michalove stated that the public hearing on this matter was held on June 8, 1993, at which time the ordinance passed on its first and second readings.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

On a roll call vote of 7-0, Ordinance No. 2027 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 226

IV. NEW BUSINESS:

A. WINTER 2010 MONITORING REPORT

This item will be reported on June 29, 1993.

B. APPROVAL OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY BUDGET

This item is being delayed at this time.

C. ORDINANCE NO. 2031 - BUDGET AMENDMENT FOR YEAR-END ADJUSTMENTS

City Manager Bean explained that the City's routine operating and capital budget revisions are held to year-end and adopted as an "omnibus" amendment. All adjustments have been included in the estimates and approved during the annual budget process.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Moore moved for the adoption of Ordinance No. 2031. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2031 passed on its first and final reading.

ORDINANCE BOOK NO. 13 - PAGE 267

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE MEETING HELD ON JUNE 8, 1993.

B. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO LOCAL ENFORCEMENT OF HANDICAPPED PARKING.

C. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR DEMETRIUS ANASTASAKIS DEVELOPMENT.

D. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR SWEETEN CREEK ANIMAL AND BIRD HOSPITAL.

E. MOTION SETTING A PUBLIC HEARING ON JUNE 29, 1993, RELATIVE TO A VARIANCE FOR HOMEWAY SUBDIVISION.

F. RESOLUTION NO. 93-81 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 20 TONS OF SCRAP METAL.

Summary: The City Meter Serves and Water Maintenance Division have accumulated approximately 20 tons of scrap metals consisting of approximately 14 tons of assorted cast and ductile iron and broker fire hydrants and approximately 6 tons of scrap metal cases, measuring chambers and assorted brass meter parts. An estimated revenue of $6,000 is anticipated.

RESOLUTION BOOK NO. 20 - PAGE 307

G. RESOLUTION NO. 93-82 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH BROWNLEE CONSTRUCTION INC. FOR THE PROJECT KNOWN AS WATER MAINTENANCE BUILDING ROOF REPAIR

Summary: The project consists of the replacement of the roof on the Water Maintenance Division Building which was damaged in the March 1993 blizzard.

RESOLUTION BOOK NO. 20 - PAGE 310

H. RESOLUTION NO. 93-83 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR JUNE 29, 1993, ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD (SECTION III OF BRAESIDE AT BILTMORE PARK)

RESOLUTION BOOK NO. 20 - PAGE 311

I. RESOLUTION NO. 93-84 - RESOLUTION REAPPOINTING MEMBERS TO THE CARRIAGE PERMIT ADVISORY BOARD

Summary: The terms of Pat Haner and Ann Stuart expire on June 25, 1993. This resolution will reappoint Pat Haner, 5 Kimberly Avenue, Asheville, North Carolina, 28804, and Ann Stuart, DVM, Biltmore Veterinary Associates, 677 Brevard Road, Asheville, North Carolina, 28806, to serve additional three year terms respectively, terms expiring June 25, 1996, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 314

J. **RESOLUTION NO. 93-85 - RESOLUTION REAPPOINT MEMBERS TO THE HISTORIC RESOURCES COMMISSION**

Summary: The terms of Raymond Spells Jr. and Carleton Collins expire on July 1, 1993. This resolution will reappoint Raymond Spells Jr., 42 Rosewood Avenue, Asheville, North Carolina, 28801, and Carleton Collins, 105 Cranford Road, Asheville, North Carolina, 28806, to serve additional three year terms respectively, terms expiring July 1, 1996, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 20 - PAGE 315

K. **RESOLUTION NO. 93-86 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 1 TO AGREEMENT NO. 2 WITH MCGILL ASSOCIATES, P.A., FOR ENGINEERING SERVICES FOR STREET AND SIDEWALK REHABILITATION PROJECTS**

Summary: McGill Associates has provided the City in accordance with the Agreement for Engineering Services dated October 18, 1988, with additional services beyond the basic services. The original Engineering Agreement with a fee of $270,000 was based on $2,730,000 in construction for three construction contracts. Since that time, the projects have grown not only in size but in complexity due not only to the extent and type of improvements, but also due to the addition of combined projects with the Metropolitan Sewerage District and more than doubling the size of the projects.

RESOLUTION BOOK NO. 20 - PAGE 316

L. **RESOLUTION NO. 93-87 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY AMENDMENT #1 TO AN ENGINEERING SERVICES AGREEMENT WITH THOMPSON-GORDON-SHOOK ENGINEERS FOR ENGINEERING SERVICES FOR THE STREETS AND SIDEWALKS IMPROVEMENT PROGRAM**

Summary: Thompson-Gordon-Shook has provided the City in accordance with the Agreement for Engineering Services with additional responsibilities beyond the basic services. The changes to accomplish the addition of requested work required the studying, revision and reworking of plans as well as revising the entire estimate and special provision for Contract No. 11.

RESOLUTION BOOK NO. 20 - PAGE 318

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 93-88 - RESOLUTION APPOINTING A MEMBER TO THE MINORITY BUSINESS COMMISSION**

There is a vacancy on the Minority Business Commission for a representative of the Asheville-Buncombe Community Relations Council. This resolution will appoint Mr. Joe Webster, Post Office Box 9794, Asheville, North Carolina, 28815, to that vacancy to fill the unexpired term of Ed Shell, term expiring August 1, 1993, at which time he is hereby reappointed, as the representative of the Asheville-Buncombe Community Relations Council, to serve a one year term, term expiring August 1, 1994, or until his successor has been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-88. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 320

B. **RESOLUTION NO. 93-89 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION**

The term of Richard Shumacher, Celine Lurey and O.E. Starnes expires on June 30, 1993. This resolution will reappoint Richard Shumacher to serve an additional three year term, term to expire June 30, 1996, or until his successor has been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-89. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 321

C. **RESOLUTION NO. 93-90 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE CRIME STOPPERS COMMITTEE**

The terms of Councilman Charles Worley, Steve Curtis and Grant Osborne expire on June 30, 1993. This resolution will appoint Councilwoman Barbara Field to serve a three year term, term expiring June 30, 1996, or until her

successor has been duly appointed and qualified. It will also reappoint Steve Curtis and Grant Osborne to serve additional three year terms respectively, terms expiring June 30, 1996, or until their successors have been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-90. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 322

D. RESOLUTION NO. 93-91 - RESOLUTION REAPPOINTING A MEMBER TO THE BUNCOMBE COUNTY DRUG COMMISSION

The term of Willie McDaniel expires on July 1, 1993. This resolution will reappoint Willie McDaniel to serve an additional three year term, term expiring July 1, 1996, or until his successor has been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-91. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 323

E. RESOLUTION NO. 93-92 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

The terms of E. Frank Davis, Harvey Burleson, Walter J. Harlow, Jonathan D. Smith and Malachie Cromartie expire on July 1, 1993. This resolution will appoint Allen Holden (as electrical inspector); Ray Burleson (as journeyman electrician); Kevin Butler (as utility representative); Joe Enderle (as licensed engineer); and Harold Garland (as layman); to serve two year terms respectively, terms expiring July 1, 1995, or until their successors have been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-92. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 324

F. RESOLUTION NO. 93-93 - RESOLUTION REAPPOINTING A MEMBER TO THE HOUSING AUTHORITY

The term of Phillip E. Crouch expired on June 11, 1993. This resolution will reappoint Phillip E. Crouch to serve an additional five year term, term expiring June 11, 1998, or until his successor has been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-93. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 325

G. RESOLUTION NO. 93-94 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

The terms of James A. Grant, Betty Donoho and Charles Bullman expire on June 30, 1993 and Octavia Caldwell has resigned. This resolution will (1) reappoint James A. Grant to serve additional three year term, term expiring June 30, 1996, or until his successor has been duly appointed and qualified (2) appoint William Estes and Lewis Isaac to serve three year term respectively, terms expiring June 30, 1996, or until their successors have been duly appointed and qualified and (3) appoint Larry Harmon to fill the unexpired term of Octavia Caldwell, term expiring June 30, 1994, or until his successor has been duly appointed and qualified.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-94. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 326

H. AGREEMENT WITH NAEGELE OUTDOOR ADVERTISING INC.

Vice-Mayor Ellison moved to authorize the Mayor to sign an agreement with Naegele Outdoor Advertising Inc. extending the statute of limitations for Naegele to file a new lawsuit against the City challenging the sign ordinance. This motion was seconded by Councilman Worley and carried unanimously.

I. RESOLUTION NO. 93-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PERMANENT MAINTENANCE AGREEMENT WITH WALMART STORES INC.

City Attorney Slawter said that Resolution No. 93-48 adopted on April 6, 1993, authorized the City Manager to execute a permanent maintenance agreement for a culvert on the property of Walmart Stores, Inc., upon which a Sam's Wholesale facility is currently under construction. The construction needs of Walmart Stores, Inc., have changed so as to require the construction of a bridge rather than a culvert. The Board of Adjustment of the City of Asheville approved the construction of the bridge on May 17, 1993, conditioned upon several items, including approval by the City Council of the permanent maintenance agreement for the bridge.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-95. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 327

J. ORDINANCE NO. 2032 - AN ORDINANCE PROVIDING FOR TECHNICAL CHANGES IN THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Attorney Slawter said that a new Code of Ordinances was adopted by Ordinance No. 2024 on April 27, 1993. He said the new City Code, adopted in accordance with Ordinance No. 2024 was the result of a recodification process that required extensive editing over a lengthy period of time. He said that certain amendments to the Code of Ordinances are necessary in order to correct errors that occurred in that recodification process and this ordinance would correct those errors.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Moore moved for the adoption of Ordinance No. 2032. This motion was seconded by Vice-Mayor Ellison.

On a roll call vote of 7-0, Ordinance No. 2032 passed on its first reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the second reading of Ordinance No. 2032. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2032 passed on its second reading.

Vice-Mayor Ellison moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2032. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 7-0, Ordinance No. 2032 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 277

K. REQUEST OF SENATOR DENNIS WINNER

It was the consensus of Council to wait until they saw a final Bill, which is pending in the legislature, before allowing Asheville's Planning and Zoning Commission having the final word on rezoning matters, subject to appeal to the City Council.

L. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop questioned who would be hiring the new Chief of Police and commented on whether or not he should hire someone within the Police Department.

M. CLAIMS

City Manager Bean said that the following claim was received by the City during the week of June 7-11, 1993: PTOC Retailers (Sanitation), Southern Bell (Water), Southern Bell (Water), William Jones (Sanitation), Jerry Maybin (Water) and Frank Beard (Sanitation).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:50 p.m.

William J. Wolcott, III
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - June 22, 1993 - 2:30 p.m.

City Council Work Session

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison (arrived at 3:20 p.m.); Council Members Barbara Field, William G. Moore, Chris J.Peterson, Joseph Carr Swicegood and Charles R. Worley; Assistant City Attorney Patsy Brison; and City Manager Douglas O. Bean.

Absent: None

REVIEW OF SANITATION BIDS

Vicki Heidinger, Executive Assistant with the Audit & Budget Division, presented a review of the bids received by the City of Asheville for sanitation services to "Areas 7 and 8" of the City of Asheville's solid waste collection system. A review of the bids was conducted by the Audit & Budget Division, the Finance Department and the Public Works Department. Based upon their review of the bids and of the costs attributable to the City of Asheville providing service to those areas, City staff recommended that the City not award a bid for the contracting of the provision of sanitation services at this time.

In addition, City staff reviewed bids for collecting recyclables in those same areas. Based upon their review of those bids, City staff recommended that their be no award of bid for the contract for collection of recyclables at this time, but that City Council direct City staff to develop a proposal for a "user fee" system for the collection of solid waste in the City of Asheville, based on the volume of waste per household. Vicki Heidinger stated that this type of user fee system would result in higher rates to those who put out more garbage and lower rates to those who reduce waste and recycle. It would provide an incentive to increase recycling.

Upon inquiries from City Council Members, City Manager Doug Bean reported that any type of user fee system would not be implemented until July 1, 1994. Before it would be implemented, it would be compared to a tax base system for solid waste collection.

Upon inquiring from City Council Members regarding a letter received from the Council of Independent Business Owners ("CIBO") which letter set forth some questions about the City's costs for providing sanitation services, Vicki Heidinger noted that the per unit cost copied from the budget book included tipping fees which were not included in the bids. As a result, any comparison to the City's costs was made after any tipping fees had been subtracted.

Council Member Barbara Field moved to accept the recommendations of City staff that there be no award of contract for sanitation services or for collection of recyclables at this time. Council Member Bill Moore seconded the motion.

Council Member Charles Worley stated that he was not totally satisfied with the analysis of the City's costs for sanitation services in the analysis where the bids were compared. He thought perhaps that there would be not much cost savings on bids for sanitation services for one-fourth of the City's area (Areas 7 and 8), but that there may be more cost savings if the bid for sanitation services would include all of the City's collection area. He recommended that the City Council take no action today, but defer it until an analysis could be done of the "cost avoidance" for contracting for the collection of solid waste throughout all the City's collection area.

Council Member Carr Swicegood stated that he felt it would be good to start with contracting for only one-fourth of the City's collection area. He wanted to go ahead and award the contract now to the lowest bidder and to give contracting for collection of solid waste a "trial run."

Council Member Bill Moore stated that he would like to see an analysis of the costs for collection for all the City and wants more information on the "user fee" system.

Council Member Barbara Field asked how long the bids would be good. City staff reported that they would be good until July 1, 1993. She had some concerns about the number of bids that were received. She felt that the City should check into why other companies did not submit a bid so that a determination could be made as to what to do to get a more competitive price.

Mayor Ken Michalove stated that the City could probably ask the bidders to extend the deadline so that the City Council could gather more information.

After further discussion, the motion of Council Member Barbara Field was withdrawn by her and by Council Member Bill Moore. The City Council came to a consensus that its subcommittee should review this matter further and report back to the City Council in about thirty days.

STORM WATER UTILITY

Mayor Ken Michalove stated that the City Council needed to give some direction to the City Manager as to whether or not they want him to complete the staff work necessary for the establishment of a storm water utility based on user fees. The proposed ordinance to establish the storm water utility and to set the rates will require a good bit of technical research and review so the City Manager would like to get some sense of the City Council's interest in establishing the utility before proceeding with expenditure of staff time.

Vice Mayor Gene Ellison asked whether or not the Water Authority should handle this matter. He wondered whether or not this should be part of the negotiations on the Water Agreement.

Council Member Bill Moore moved that the City go ahead with setting up the storm water utility on the user fee basis. City Manager Doug Bean noted that the storm water utility and user fees could not be set up without a public hearing on the matter and adoption of an ordinance.

Vice Mayor Gene Ellison asked if the City could use the study done by the consultants on the storm water system to determine what capital projects should be done on a priority basis. He suggested that the funding come from the general fund.

Council Member Charles Worley noted that a user fee system is based on uses by property owners, but that user fees are not tax deductible for individuals, even though they are for businesses. He suggested that the City look into some type of combination of a user fee system and a tax base system. He wondered if a unit cost could be established for residential property, which would be collected from taxes, with user fees

established for and collected from commercial, industrial and institutional uses.

Assistant City Attorney Patsy Brison pointed out the provisions of N. C. Gen. Stat. § 160A-314 which govern the establishment of rates for a storm water utility system. She noted that some questions need to be resolved about a combination of tax bases and user fee bases system.

Upon inquiry from the Mayor, City Manager Doug Bean noted that this year's budget for the general fund included approximately $250,000 for only the maintenance of the existing storm water system. He stated that the City staff's recommendation of a rate of $2.00 per "Equivalent Residential Unit" would generate approximately $800,000 to do a master plan on renovations to the storm water system. The establishment of a master plan is the first step that EPA requires in this process. Actual capital improvements to the storm water system would be done later, based upon an increase in the utility rate, such as to the $5.00 per "Equivalent Residential Unit" recommended by the committee which reviewed this matter. The additional funds could be used for debt service on bonds sold for the capital improvements to the storm water system.

Upon inquiry from Council Members about the effect of storm water improvements to the renovations completed on the City's streets and sidewalks, the City Manager said that storm water improvements were made a part of the street and sidewalk projects. He further stated that expenditures for such storm water improvements resulted in less money available for street and sidewalk renovations.

Council Member Chris Peterson moved that consideration of this matter be postponed until the City receives the proposed or final rules from the EPA regarding the storm water system, until City Council could review what storm water improvements have been completed as a result of the street and sidewalk contracts, and until the City Council could further review where the outstanding storm water problems are located and their extent. That motion was seconded by Council Member Carr Swicegood. Vice Mayor Gene Ellison suggested that a presentation be made to the public regarding the problems with the storm water system and that a decision on the storm water utility be postponed for thirty to sixty days. City Manager Doug Bean pointed out that a slide show

had been prepared by the City which shared the extent and magnitude of the problems and had been presented to a number of different community organizations. Mayor Ken Michalove suggested that the presentation be done at a regular City Council meeting, but that the matter not be considered until around 7:00 p.m. so that any member of the public who wished to be there could.

No vote was taken upon the motion, but it was the consensus of Council Members that a determination as to whether or not to proceed any further with the steps necessary for setting up a storm water utility should be postponed for thirty to sixty days until a presentation could be made to Council Members and the public regarding storm water repairs done as part of the street and sidewalk repair contracts and what outstanding problems remain.

MECHANICAL CODE ENFORCEMENT

Mayor Michalove noted that City Council Members had received a copy of the recommendation that the City of Asheville take over the inspections and enforcement of the mechanical code portion of the State Building Code. He noted that Western North Carolina Air Pollution Control Agency had been notified of the City Council's decision to terminate our contract with them for the services.

Council Member Bill Moore moved that the City of Asheville enforce the state mechanical code and perform the necessary inspections and that the rate schedule for inspections be the existing rate schedule of the Western North Carolina Air Pollution Control Agency. That motion was seconded by Council Member Barbara Field and adopted unanimously.

ORDINANCE NO. 2033 - ADOPTION OF THE 1993-1994 BUDGET

City Manager Doug Bean reported that he had received a telephone call from the regional manager of Carolina Power & Light ("CP&L") and that CP&L would pay the local franchise tax in the same manner as previously paid to the City of Asheville. City Manager Doug Bean also noted that Buncombe County has included in its budget the amount for the law enforcement formula which has been tentatively agreed to by representatives of the City and the County.

Council Member Bill Moore moved for adoption of the proposed budget ordinance for fiscal year 1993/1994. That motion was seconded by Council Member Barbara Field.

Council Member Chris Peterson noted that he was concerned about the expected tax increases which would be necessary for future budget years if there are no cuts or tax increases for this year's budget. He distributed to Council Members a list of suggestions for cutting expenditures and increasing revenues during the upcoming budget year. He moved to amend the motion to approve the budget to delay approval of the budget until the next Council meeting on June 29, 1993 and that the Mayor appoint three members of City Council to a committee to review the proposals listed by him. That motion was seconded by Council Member Carr Swicegood.

Vice Mayor Gene Ellison addressed the list prepared by Council Member Chris Peterson. He noted that he intended to vote "yes" on the proposed budget because it does not raise taxes, keeps the same level of services and makes some cuts in expenditures.

Council Member Barbara Field asked the City Manager some questions about the suggestions on the list of Council Member Peterson. She asked if the proposed increase in City Council compensation was included in the budget, to which the City Manager replied that it was. She stated that she supported adoption of the proposed budget.

Council Member Charles Worley noted that he appreciated the efforts of Council Member Peterson in preparing a list of proposals and that he is in favor of cutting expenditures where possible. He noted that the City Council could go ahead and vote on the proposed budget today, but study the list of suggestions and implement those later.

Council Member Carr Swicegood said he would like more opportunity to review the proposals on the list of Council Member Peterson and felt that there needed to be a "hard look" at the budget due to the expected tax increases for the next several years.

Vice Mayor Gene Ellison suggested that the City Council review ways to cut expenditures before it gets to the beginning of the budget process for next year's budget.

Mayor Ken Michalove noted that a number of the expenditure cuts suggested by Council Member Peterson were for capital projects and that more study need to be made of those suggestions. In addition, the Council Members would need to approve the award of bids for the purchase of any capital equipment. He recommended that City Council proceed with adoption of the budget today.

After further discussion, the proposed amendment to the principal motion regarding adoption of the budget ordinance was withdrawn by Council Members Peterson and Swicegood.

After some discussion as to whether or not Council Member Bill Moore's motion included the increase in Council compensation, he noted that his motion did not include the proposed increase. Vice Mayor Gene Ellison moved to amend the motion to include the proposed compensation for City Council Members, effective with the City Council which would take office in December of 1993. That motion was seconded by Council Member Barbara Field. After some discussion on the proposed increase in City Council compensation, the City Council adopted the amendment to the motion by a vote of 5 to 2, with Mayor Michalove and Council Member Peterson voting "no."

The City Council then adopted the annual budget ordinance for FY93/94, as amended, by a unanimous vote.

ORDINANCE BOOK NO. 13 - PAGE 319

APPROVAL OF THE WATER AUTHORITY BUDGET

Mayor Michalove noted that the next item for consideration by the City Council was approval of the Water Authority budget. Buncombe County and the Water Authority have already approved the budget.

Council Member Bill Moore moved that the City Council approve the proposed water budget, subject to the Water Authority and Buncombe County amending the Water Authority budget they had approved to increase the cost allocation in the Water Authority budget by the amount of the study done by David M. Griffith & Associates, and that a letter be sent to Buncombe County and the Water Authority requesting that amendment. The motion was

seconded by Council Member Charles Worley and was adopted unanimously.

EXECUTIVE SESSION

Upon motion of Council Member Bill Moore and second by Council Member Charles Worley, which motion was unanimously adopted, the City Council moved to go into an executive session to discuss matters related to a proposed real estate purchase.

ADJOURNMENT

Upon return to open session, the meeting was adjourned at approximately 5:50 p.m.

William D. Barrett Jr. — CITY CLERK

H. Lee Nicholson — MAYOR

Tuesday - June 29, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Eugene W. Ellison

INVOCATION

Councilman Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-96 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HERBERT WATTS

Mayor Michalove read the resolution stating that Herb Watts has been an employee for 25 years and has requested retirement from his position as Sergeant in the Police Department. He expressed City Council's appreciation to Herb for his service to the City of Asheville and its citizens.

Resolution No. 93-96 was adopted by acclamation.

RESOLUTION BOOK NO. 20 - PAGE 331

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO LOCAL ENFORCEMENT OF HANDICAPPED PARKING

ORDINANCE NO. 2034 - ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO PROVIDE FOR REGULATION OF HANDICAPPED PARKING

ORDINANCE NO. 2035 - ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE REGARDING STOPPING, STANDING AND PARKING OF MOTOR VEHICLES

ORDINANCE NO. 2036 - ORDINANCE AMENDING APPENDIX B, SCHEDULE OF CIVIL PENALTIES, SECTION A, OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 4:04 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Major Jay Breedlove explained that the ordinances before the Council will amended the parking regulations to (1) regulate handicapped parking by enforcing violations thereof pursuant to a civil penalty; (2) allow persons designated by the City Manager to enforce handicapped parking; and (3) assess a $100.00 civil penalty with a $25.00 late penalty against violators.

Upon inquiry of Councilman Moore, Major Breedlove explained that all the volunteers will be trained and monitored.

Major Breedlove explained the scheduling of the operation and also the liability issue.

In response to Councilman Peterson's inquiry about enforcement on private property, Major Breedlove explained that the ordinances do apply to private property also.

Mr. Bob Brummond spoke in favor of the fine being increased to $100 and the commitment to enforce the handicapped parking law. He expressed concern, however, that the volunteers are not paid.

Mr. Ed King spoke in favor of the proposed ordinances and urged the Council to adopt them.

An unidentified man spoke in favor of the proposed ordinances and hoped the Council would be able to find enough volunteers to enforce this law.

Mayor Michalove closed the public hearing at 4:18 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copies of the ordinances and they would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2034. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2034. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2034. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2034 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 324

Councilman Worley moved for the adoption of Ordinance No. 2035. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its first reading.

Councilwoman Field moved to suspend the rules and proceed to the second reading of Ordinance No. 2035. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2035. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2035 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 326

Councilman Worley moved for the adoption of Ordinance No. 2036. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2036 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2036. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2036 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2036. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2036 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 327

B. PUBLIC HEARING RELATIVE TO ADOPTION OF THE BILTMORE VILLAGE DEVELOPMENT PLAN

RESOLUTION NO. 93-97 - RESOLUTION ADOPTING THE BILTMORE VILLAGE DEVELOPMENT PLAN

Mayor Michalove opened the public hearing at 4:19 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, briefly explained the report and said that the Historic Resources Commission of Asheville-Buncombe County and the N. C. Division of Archives and History funded the preparation of the Biltmore Village Development Plan at the request of merchants and property owners. A local consultant was hired to work with city staff in the preparation of the plan. A committee composed of Biltmore Village merchants and property owners oversaw the plan's preparation and was very involved in its preparation. The plan has been endorsed by the Biltmore Village Merchant's Association, the Village property owners, and the Historic Resources Commission. The Asheville Planning and Zoning Commission reviewed the plan and unanimously recommended approval of it at their May 5, 1993 meeting. No negative comments regarding the plan have been received.

Mr. Robert Griffin explained various questions raised by Councilman Swicegood concerning the Biltmore Village boundaries, the goal of the plan being more pedestrian oriented, traffic management and street lighting.

It was the consensus of Council that the plan presented was excellent and they congratulated the committee members.

Mr. Walter McGee, financial and business consultant, briefly summarized statistics of a business in the Biltmore Village area.

Mayor Michalove closed the public hearing at 4:40 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-97. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 20 - PAGE 332

C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ESTABLISH CONDITIONS FOR CHURCHES AS CONDITIONAL USES IN THE R-1, R-2 AND R-3 ZONING DISTRICTS

Mayor Michalove opened the public hearing at 4:41 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that churches are currently identified as conditional uses in the R-1, R-2, and R-3 Residential Districts. A minimum number of conditions which churches in these districts must meet are set forth in the existing Section 30-7-1.A. The conditions currently in use do not adequately address the issues confronting the development/expansion of churches in residential districts. Working with representatives of churches and residential neighborhoods, the Planning staff developed the revised conditions to address these issues. The draft ordinance has been reviewed by the Asheville Planning and Zoning Commission and unanimously recommended for adoption at their May 5, 1993 meeting. She then briefly reviewed the recommended changes in the ordinance.

There was some discussion relative to the 10 ft. versus 20 ft. setback.

Mr. Chuck Fuller, representative of Ralph Sexton Ministries, spoke concerning the 10 ft. setback issue and also stated that the public address system should not be part of the ordinance.

Ms. Cogburn answered questions relative to tent services and the public address system.

Mr. Gale Brown, representative of Buncombe Baptist Association, spoke in support of the 10 ft. setback issue and urged the Council to support it also.

Mr. Bill Horton stated some concerns regarding setback requirements for small churches and the public address system. He asked the Council not to pass the proposed ordinance until representatives of his church have had an opportunity to meet with City planners.

Mr. Don Taylor suggested that the curb cut requirements and the grandfathering issues be more clearly spelled out in the ordinance.

Mr. Bill Mull spoke in favor of a 40 foot setback with a possible variance being granted if the church could show the need for additional parking and if the neighbors agree to the variance.

Mr. Alan Styles stated concerns regarding the minimum lot size, restrictions on churches vs. businesses, the Board of Adjustment being allow to require additional vegetation in the buffer area, and the 25% restriction of offices in the church. He urged the Council not to adopt this ordinance today.

Mr. Dick Dickson, 42 Salem Avenue, questioned who instigated the ordinance amendment. Ms. Cogburn explained that the Board of Adjustment requested the amendment.

An Associate Pastor of the Merrimon Avenue Baptist Church read a message from Pastor Billy Cline which outlined the achievements and services of the Church.

Mr. Everett Whitman spoke in support of the ordinance as proposed.

Ms. Leni Sitnick suggested parishioners walk or carpool to church to help alleviate parking problems. She felt that a 10 foot buffer leaves little or no protection to the neighbors.

Mr. Bobby Peek, representative of the Merrimon Avenue Baptist Church, spoke in support of the 10 foot setback requirement with adequate buffering and said that the neighbors had agreed to that setback.

Ms. Ella Bowman, spoke in support of the 10 foot setback requirement and stated examples where Merrimon Avenue Baptist Church has gone far beyond the legal requirements in their expansion plans.

Ms. Kathy Gleason, Mediator for the Merrimon Avenue Baptist Church and the surrounding neighborhood, explained the tentative agreement reached in May by the Church and surrounding property owners which agreement is pending until the outcome of Council's decision. She suggested some alternative language that might be satisfactory to each of the parties.

A resident in the neighborhood of the Merrimon Avenue Baptist Church spoke in support of a 20 or 40 foot setback.

Ms. Betsy Murray spoke relative to the proposed ordinance.

A participator in the mediation process passed out an article entitled "Mega-churches overwhelm neighbors" and spoke about the 10 foot vs. 20 foot setback requirement.

Mr. Walter Glance, resident on Henrietta Street, spoke in favor of the 20 foot setback requirement with a good buffer.

Mayor Michalove closed the public hearing at 5:55 p.m.

Mayor Michalove suggested that due to the importance of this issue, the ordinance be delayed for approximately two weeks in order to give the Council an opportunity to review the information presented at this public hearing.

Councilman Moore stated that he would like a report from Planning Department on the role of the Board of Adjustment as it relates to this proposed ordinance and any legal implications surrounding this issue.

Councilman Worley stated that he would like to have more information on other conditional uses in other R-1, R-2 and R-3 residential districts with regard to buffering and consistency.

Councilman Worley moved to set the first reading on this proposed ordinance on August 17, 1993, without further advertisement. This motion was seconded by Councilman Moore and carried unanimously.

D. WINTER 2010 MONITORING REPORT

Dr. Albert Anderson, Chairman of the Planning and Zoning Commission, said that since the adoption of the 2010 Plan in 1989, the City staff has undertaken periodic surveys to monitor progress by the responsible agencies toward implementation of the goals and objectives contained within the Plan. He then summarized the plan.

He read a statement from the Planning Department which requests consent to reduce the monitoring report frequency to an annual basis versus a semi-annual basis.

Mayor Michalove thanked Dr. Anderson for the report and said that the Council would consider the request from the Planning Department.

E. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR DEMETRIUS ANASTASAKIS DEVELOPMENT

Mayor Michalove opened the public hearing at 6:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, gave background information on the vested rights procedures and explained that approval of a site plan under the vested rights procedures gives the applicant the right to start construction of the development as approved within two years of approval, regardless of the subsequent adoption of ordinances which may affect the project. The State of North Carolina has required all cities to adopt Watershed Regulations by July 1, 1993, These new regulations will entail significant restrictions on new development within the watershed area.

Mr. Tony Nicholson, Urban Planner, explained that Demetrius Anastasakis is seeking approval of a proposed office/retail development under the vested rights procedure. The site is located at the southeast corner of Hendersonville Road and Blake Terrace, and is within the designated watershed area. While the property and all surrounding lots are zoned Commercial Highway, residential development abuts the property on the north and east sides.

He said the development consists of a one-story office/retail building totaling 5,000 square feet. The proposed development meets or exceeds the minimum requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Councilman Worley confirmed that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 6:18 p.m.

Councilman Peterson moved to establish a statutory vested right for a site specific plan of a proposed office/retail development, located at the southeast corner of Hendersonville Road and Blake Terrace. This motion was seconded by Councilman Peterson and carried unanimously.

F. PUBLIC HEARING RELATIVE TO SITE PLAN APPROVAL UNDER THE VESTED RIGHTS PROCEDURE FOR SWEETEN CREEK ANIMAL AND BIRD HOSPITAL

Mayor Michalove opened the public hearing at 6:20 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, explained that Sweeten Creek Animal and Bird Hospital is seeking approval of a proposed veterinary hospital under the vested rights procedure. The site is located on Sweeten Creek Road near Rathfarnham Road and is within the designated watershed area. The property and all surrounding lots are zoned Commercial General.

He said the veterinary hospital consists of a one-story building totaling 2,730 square feet. The proposed development is currently being reviewed for compliance with the Asheville Zoning Ordinance.

Councilman Worley confirmed that if this site plan approval came before the Council today, it would meet all of the current regulations.

Mayor Michalove closed the public hearing at 6:21 p.m.

Councilman Peterson moved to establish a statutory vested right for a site specific plan of a proposed veterinary hospital, located on Sweeten Creek Road near Rathfarnham Road. This motion was seconded by Councilwoman Field and carried unanimously.

G. PUBLIC HEARING ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION III OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 2037 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD KNOWN AS SECTION III OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 6:22 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Tallerday, Senior Planner, said that on June 9, 1993, the City received a petition from the owners of Section III of Braeside at Biltmore Park Subdivision

requesting annexation into the City of Asheville. This property has been subdivided into 28 lots by plat recorded with the Buncombe County Register of Deeds on December 30, 1992.

On June 15, 1993, the City Clerk certified that the petition was valid in that it was signed by the owners of real property being requested for annexation and that the property was contiguous to the Asheville city limits as required by N. C. Gen. Stat. sec. 160A-31 (a).

Approximately 2,625 feet of 6-inch water line is being installed by the developer along Crocus Lane, Red Fox Circle and Conifer Court. These lines are being constructed to Asheville-Buncombe Water Authority standards and will be maintained by the Water Authority.

Approximately 2,180 feet of 8-inch sewer line is being installed by the developer along Crocus Lane, Red Fox Circle and Conifer Court. These lines are being constructed to MSD standards and will be maintained by MSD.

Fire protection will be provided by the City of Asheville Fire Department beginning on the effective date of annexation.

Police protection will be provided by the City of Asheville Police Department beginning on the effective date of annexation.

Streets are being constructed to NC DOT standards and are expected to be accepted by the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the State maintained streets upon the effective date of annexation.

Solid waste collection services will be provided by the City to individual residences according to the same policies in effect in the City at the time of annexation.

The petitioner is requesting adoption of the ordinance on all three readings at this meeting, with an effective date of December 29, 1993. The current estimated real property valuation is $1,057,000 which yields an annual property tax of $6,340, based on the current City tax rate of $.60/$100 valuation.

Mayor Michalove closed the public hearing at 6:24 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Peterson moved for the adoption of Ordinance No. 2037. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its first reading.

Councilman Worley moved to suspend the rules and proceed to the second reading of Ordinance No. 2037. This motion was seconded by Councilman Moore and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its second reading.

Councilman Worley moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2037. This motion was seconded by Councilwoman Field and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2037 passed on its third and final reading.

ORDINANCE BOOK NO. 13 AT PAGE 329

H. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR HOMEWAY SUBDIVISION

Mayor Michalove opened the public hearing at 6:26 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that Gus Barlas is seeking preliminary plat approval of a subdivision to be located in West Asheville along Homeway Road. While a small portion of the property is located within the City, most of the property and all of a proposed street is located in the extra-territorial jurisdiction. The four acre property is to be subdivided into six lots. In order to provide access to three of the lots, the developer must extend Appalachian Way within its existing platted right-of-way. This will entail a 275-foot extension of Appalachian Way to be constructed to DOT standards.

Although a 40 foot wide right-of-way exists for Appalachian Way, this portion of the street has never been constructed. While the developer has proposed to widen the right-of-way to 45 feet to meet DOT street standards, the Asheville Subdivision Ordinance requires a minimum width of 50 feet for subdivision streets. Therefore, a variance of 5 feet on the required right-of-way width is requested.

The Asheville Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and City Council to grant variances from the regulations when the developer can show that a provision should be modified due to topographical or other conditions peculiar to the site.

At their June 2, 1993 meeting, the Planning and Zoning Commission approved the preliminary plat with three conditions.

1. Availability of services must be approved by Asheville-Buncombe Water Authority and Metropolitan Sewerage District.

2. The proposed extension of Appalachian Way must be a public street and built to state standards.

3. The variance requests regarding setbacks must be granted by the Board of Adjustment.

The Planning and Zoning Commission also recommended approval of the variance request regarding the right-of-way width of Appalachian Way.

Councilman Moore questioned what kind of hardship there is to grant this variance.

Mr. Nicholson explained what the variance requests regarding setbacks were which must be granted by the Board of Adjustment.

Mr. Ernest Turbyfill, 208 Appalachian Way, stated that residents were not being informed at all on this project.

Ms. Peggy Gosnell, 57 Honeysuckle Lane, expressed concern over the developer's encroachment onto her water lines and access road.

Because of some issues addressed at this meeting, Councilman Moore moved to continue the public hearing until August 17, 1993, without further advertisement. This motion was seconded by Councilman Worley and carried unanimously.

I. PUBLIC HEARING RELATIVE TO AMENDING RULE 3 (i) OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

RESOLUTION NO. 93-98 - RESOLUTION AMENDING RULE 3 (i) OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 6:43 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that the Civil Service Board adopted this rule change on May 4, 1993, and then explained the following two proposed amendments:

1. Test scores shall be ordered on the appropriate eligible list by whole numbers only. In the event a raw test score includes fractional points, raw scores shall be rounded to the nearest whole number as follows:

   Fractional scores of .5 or above shall be rounded up to the nearest whole number; fractional scores less than .5 shall be rounded down to the nearest whole number.

2. Upon receiving an approved request to fill a vacancy, the names of the candidates holding the top 3 scores on the appropriate eligible list shall be referred to the department head for consideration. In the event more than 1 candidate has the same score, all candidates holding that score shall be referred.

Mayor Michalove closed the public hearing at 6:45 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-98. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 1

At this time (6:45 p.m.), Councilwoman Field left the meeting unexcused, thus all her votes hereinafter will be counted as "yes".

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2028, RELATIVE TO AMENDING OF THE ZONING ORDINANCE TO ADOPT WATERSHED PROTECTION REGULATIONS FOR THE CITY OF ASHEVILLE

Mayor Michalove said that the public hearing on this matter was held on June 8, 1993, at which time it passed on its first reading. The ordinance passed on its second reading on June 15, 1993.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2028, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 228

B. THIRD READING OF ORDINANCE NO. 2029, RELATIVE TO ZONING OF THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL PROPERTY AT WESTRIDGE MARKET PLACE TO CH COMMERCIAL HIGHWAY

Mayor Michalove said that the public hearing on this matter was held on June 8, 1993, at which time it passed on its first reading. The ordinance passed on its second reading on June 15, 1993.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2029, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 255

C. SECOND READING OF ORDINANCE NO. 2030, RELATIVE TO BINGHAM HEIGHTS/RICHMOND HILL EXPANSION INTO THE EXTRATERRITORIAL JURISDICTION AREA

Mayor Michalove said that the public hearing on this matter was held on June 15, 1993, at which time it passed on its first reading.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2030, passed on its second reading.

IV. NEW BUSINESS:

A. **ORDINANCE NO. 2038 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING THE BEAVERDAM RUN AREA**

Mayor Michalove stated that the public hearing on this matter was held on June 15, 1993.

Councilman Peterson stated that if someone is willing to come into the City or wants to be annexed, he would vote "yes" on the annexation ordinance.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2038. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its first reading.

Councilman Moore moved to suspend the rules and proceed to the second reading of Ordinance No. 2038. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its second reading.

Councilman Moore moved to suspend the rules and proceed to the third and final reading of Ordinance No. 2038. This motion was seconded by Councilman Worley and carried unanimously.

On a roll call vote of 6-0, Ordinance No. 2038 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 332

B. **RESOLUTION NO. 93-99 - RESOLUTION ESTABLISHING THE FILING FEE FOR CANDIDATES FOR THE ASHEVILLE CITY COUNCIL**

City Attorney Slawter said that N. C. Gen. Stat. sec. 163-291 provides that the governing board has the authority to set the filing fee for City Council candidates at not less than $5.00 nor more than one percent (1%) of the annual salary for members of the Council. A separate Charter provision has previously set the fee at $10.00, thus

precluding the necessity of any action by the Council. The current amendments before the North Carolina Legislature which would repeal this Charter provision, among others, will necessitate that the Council set the filing fee. The fee must be set "not later than the day before candidates are permitted to begin filing notices of candidacy." The filing period begins at 12:00 Noon on July 2, 1993. The Council may set the fee at any level desired by the Council, ranging from a minimum of $5.00, to a maximum of one percent of the annual salaries of Council members.

As of this date, the repeal of Section 73, as well as the other Charter amendments which are pending in the Legislature have been passed by the House but not by the Senate. In the event of final passage of that legislation, this resolution is needed.

Councilman Swicegood moved to set the filing fee for City Council candidates, including candidates for Mayor, at $5.00. This motion was seconded by Councilman Moore and carried unanimously.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 93-99. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 3

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE JUNE 15, 1993, CITY COUNCIL MEETING.

B. BIDS RELATIVE TO ONE AIR COMPRESSOR/PURIFIER FOR THE FIRE DEPARTMENT.

Summary: The sole bid from Ingersoll-Rand, Pleasant Garden, North Carolina, has been reviewed for technical compliance to specifications by Chief Rukavina and Robert Griffin, Executive Assistant. Their detailed review confirmed that Ingersoll-Rand's proposal meets all requirements of our specifications and that the amount bid is fair, reasonable and within budget for this purpose. It is therefore recommended to proceed with the award of this bid to Ingersoll-and for the purchase and installation of the air compressor/purifier unit in the amount of

$29,666.50. A complete copy of the bid document is attached hereto as Exhibit "A".

C. RESOLUTION NO. 93-100 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF TWO SURPLUS FIRE TRUCKS BY PRIVATE SALE

Summary: Authorization to sell a 1960 Ford, 750 G.P.M. pumper for $3,501 and a 1968 American LaFrance, 1000 G.P.M. pumper for $450.00

RESOLUTION BOOK NO. 21 - PAGE 4

D. RESOLUTION NO. 93-101 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE TECHNICAL SERVICES CONTRACT WITH THE LAND-OF-SKY REGIONAL COUNCIL

Summary: The City of Asheville has agreed to contract with the Land-of-Sky Regional Council to provide transportation related planning services for the transportation program from July 1, 1993, through June 30, 1994.

Planning staff answered various questions raised by Councilman Swicegood.

RESOLUTION BOOK NO. 21 - PAGE 6

Councilman Moore moved the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. ORDINANCE NO. 2039 - BUDGET AMENDMENT FOR POLLUTION CONTROL SERVICES

City Manager Bean said that this budget amendment, in the amount of $95,731.53, is to pay for emergency removal of pollution contamination from damaged underground storage tank at the Reid Recreation Center.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2039. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2039 passed on its first and final reading.

B. COMMENTS BY LENI SITNICK

Ms. Leni Sitnick made several comments relative to the federal government's involvement in storage tank cleanups, street repair, speculative grading in buffer zones and meeting times for City Council and County Commissioners.

C. FINAL PLAT APPROVAL OF PHASE IV FOR FOREST LAKE SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that on February 14, 1990, the Planning and Zoning Commission granted preliminary plat approval for Forest Lake Subdivision, a 135 lot development located on Rock Hill Road. The Commission recommended approval of variances to permit a cul-de-sac right-of-way radius of 45 feet (rather than 50 feet) and to permit street grades in excess of 12%. The Asheville City Council granted these variances on March 13, 1990.

He said that on November 4, 1992, the Planning and Zoning Commission reaffirmed its February 1990 approval of the preliminary plat since the one-year period of validity for the plat and variances approval had expired. They recommended approval of the requested variance as follows: Permit a right-of-way radius of 45 feet at the cul-de-sac turnaround.

At the December 22, 1992, the City Council voted to approve the variance request.

In addition, the final plats for Phases I, II, III, and III-B have already been approved by City Council. The developers have submitted a final plat for Phase IV, containing 31 lots, to the Planning Department for review and approval. The final plat for Phase IV of the Forest Lake Subdivision complies with the City of Asheville's subdivision regulations. This section of the subdivision is located outside City limits in the City's extraterritorial jurisdiction. Improvements (streets, water, sewer, etc.) do not have to be constructed prior to final plat approval in subdivisions located outside City limits.

Councilman Worley moved to approve the final plat approval of Phase IV for Forest Lake Subdivision. This motion was seconded by Councilman Peterson and carried on a 5-1 vote, with Councilman Moore voting "no."

A. CLAIMS

City Manager Bean said that the following claims were received by the City during the week of June 14-17, 1993: Ann Sales (Civic Center), James Waters (Water) and James P. Stout (Water.)

He also said that the following claims were received by the City during the week of June 21-25, 1993: Mary B. Lewis (Streets), Southern Bell (Water), Bruce Parton (Police), Hyatt Electric (Water) and Peggy Shepherd (Streets).

He said these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Mayor Michalove adjourned the meeting at 7:15 p.m.

CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 414-93
ONE (1) AIR COMPRESSOR/PURIFIER FOR CITY OF ASHEVILLE FIRE DEPARTMENT

ITEM	INGERSOLL-RAND PLEASANT GARDEN, N.C.
A. 1 EACH SCBA AIR COMPRESSOR/ PURIFIER FURNISHED AND INSTALLED	
* SEE MATERIALS LISTED BELOW	
MAKE:	INGERSOL-RAND
MODEL NO.:	BAP20D
AMOUNT:	$29,666.50
TERMS:	NET 30
DELIVERY:	90 DAYS
BID DEPOSIT:	5% BID BOND

*MATERIALS INCLUDE 20.6 CFM COMPRESSOR; ENGINE, DIESEL 35HP; MUFFLER, SILENCER; INTAKE AIR FILTER; GLOW PLUGS; CO MONITOR; CASCADE-TYPE AIR CONTROL PANEL; MANUAL FILL CONTROL; SINGLE REGULATOR, FILL PRESSURE; 4 DOT STORAGE CYLINDER, 6000 PSIG; DOT A MANIFOLD, 6000 PSIG, 4 CYL.; FILL HOSES & ADAPTERS.

THE FOLLOWING COMPANIES SUBMITTED A 'NO BID': ANDERSON FIRE & SAFETY EQUIPMENT COMPANY, ANDERSON, S. C.; CHARLOTTE EQUIPMENT SALES, INC., CHARLOTTE, N. C.; HAROLD'S SALES & SERVICE COMPANY, INC., MARIETTA, GA.; AND SIMON LADDER TOWERS, INC., EPHRATE, PA.

Tuesday - July 13, 1993 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; Assistant City Manager Charles Penny; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove; Councilman Chris J. Peterson; and City Manager Douglas O. Bean

INVOCATION

Councilman Swicegood gave the invocation.

BELE CHERE '93

Mr. Chip Scott, Festival Coordinator, passed out Bele Chere T-shirts and thanked the Council for their support of this festival.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE MONTH OF JULY 1993 AS "RECREATION AND PARKS MONTH"

Vice-Mayor Ellison proclaimed the month of July 1993 as "Recreation and Parks Month" and presented the proclamation to Mr. Ray Kisiah, Director of Parks and Recreation, and Ms. Ann Whisenhunt, Cultural Program Supervisor.

B. RECOGNITION OF THE PUBLIC SERVICE EMPLOYEE OF THE YEAR BILL FULP

Vice-Mayor Ellison recognized Bill Fulp, Public Service Employee of the Year and presented him with a Certificate. He stated that Mr. Fulp was chosen as the overall winner in the category he was nominated for (Outstanding Supervisor) and also as the overall individual to represent public employees in the Asheville-Buncombe area who, during 1992 made outstanding contributions to the community and his own agency.

II. PUBLIC HEARINGS: None

III. OLD BUSINESS:

A. THIRD READING OF ORDINANCE NO. 2030, RELATIVE TO BINGHAM HEIGHTS/RICHMOND HILL EXPANSION INTO THE EXTRATERRITORIAL JURISDICTION AREA

Vice-Mayor Ellison said that the public hearing on this matter was held on June 15, 1993, at which time it passed on its first reading. He said that Ordinance No. 2030 passed on its second reading on June 29, 1993.

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 6-0, Ordinance No. 2030, passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 257

IV. NEW BUSINESS:

A. ORDINANCE NO. 2040 - ORDINANCE AMENDING SECTION 2-61 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (ASHEVILLE AREA CIVIC CENTER COMMISSION MEMBERSHIP)

City Attorney Slawter stated that this ordinance will reduce the membership of the Asheville Area Civic Center Commission from eleven to nine members.

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2040. This motion was seconded by Councilman Moore.

On a roll call vote of 5-0, Ordinance No. 2040 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 1

B. RESOLUTION NO. 93-102 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MR. D'S CLEANING SERVICE FOR PROFESSIONAL JANITORIAL SERVICE FOR THE CITY HALL BUILDING, THE PURCHASING DIVISION BUILDING, AND THE DOWNTOWN DEVELOPMENT BUILDING

Assistant City Manager Penny said that the City advertised for bids for janitorial services for the City Hall Building, Purchasing Division Building at Hunt Hill Place, and the Downtown Development Building. Bids were also requested for the new Public Works Building, but the building is very new and all of the Public Works staff have

not yet been moved into the building; therefore, it is recommended that no bids be awarded for the Public Works Building at this time.

He said that the staff did look into the possibility of City staff providing these services but that would require an additional full-time position and 3 part-time positions for an estimated cost of $49-50,000. He also stated that the City is in the process of negotiations relative to the services for the Public Works Building.

He said that it is recommended that the bids for the janitorial services for the City Hall Building, Purchasing Division Building, and the Downtown Development Building be awarded to the lowest responsible bidder, which is Mr. D's Cleaning Service, in the amount of $52,800. A complete summary of the bids is attached hereto as Exhibit "A".

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-102. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 7

C. RESOLUTION NO. 93-103 - RESOLUTION ADOPTING A SMALL AREA PLAN KNOWN AS THE HENDERSONVILLE ROAD CORRIDOR PLAN AS AN ADDENDUM TO THE COMPREHENSIVE PLAN FOR THE CITY OF ASHEVILLE (ASHEVILLE CITY PLAN 2010)

Vice-Mayor Ellison stated that a public hearing on this matter was held on May 11, 1993, and thereafter a worksession with the Planning and Zoning Commission was held concerning some issues raised at the public hearing.

Ms. Patty Tallerday, Senior Planner, gave a brief report regarding the recent rezoning activity in the Hendersonville Road area adjacent to Reed Street.

Mr. Loyd Kirk, 866 Hendersonville Road, spoke in support of Plan C and asked the Council to amend the Plan by deleting the word "existing" in the sentence "The community will support land use policies that allow existing businesses to continue and to prosper."

Councilman Worley moved to amend the Plan by deleting the word "existing" at the bottom of page 1 in the sentence which reads "The community will support land use policies that allow existing businesses to continue and to prosper." This motion was seconded by Councilman Swicegood and carried unanimously.

Mr. Kirk also recommended that a 35 mph zone be maintained north of Rock Hill Road in the interest of safety and therefore asked that the sentence which reads "This Plan recommends that the speed limit for Hendersonville Highway be maintained at 45 mph" be deleted.

Councilman Moore and Mr. Penny explained that several years ago the State said that the only way to have street lights installed on Hendersonville Highway (in order to provide access for residents from the side streets) was for the City to agree to have the 45 mph speed limit. Since Hendersonville Highway is a State road, the City has no control over the speed limit; however, the Transportation Advisory Committee ("TAC") would be requested to look at the speed limit issue and have it monitored.

Mr. George Morosani urged the Council to support Plan C and asked for some synchronization of traffic lights on Hendersonville Road.

Councilwoman Field stated that the TAC is currently working on the coordination of traffic lights on Patton Avenue, Merrimon Avenue and Hendersonville Highway.

Ms. Polly Hickling was concerned about a traffic light installed at the intersection of Hendersonville Highway and Caribou Road. She felt the light should be activated by the Fire Department for an emergencies rather than be activated continuously. She also urged the Council not to increase traffic on Caribou Road.

Vice-Mayor Ellison stated that the City Manager would look into the street light situation.

Ms. Tallerday stated that she would include in the plan a sentence on page 7 which states that traffic signals should be synchronized for smoother traffic flow and also a sentence on page 7 that would state that the speed limit on Hendersonville Highway should be monitored for the safest route speed.

Ms. Julia Cogburn, Planning Director, stated concerns relative to the amendment made at the May 11, 1993, meeting,

i.e., "in places where the commercial use area abuts a residential street on the east, a buffer should be required between the commercial use area and the street. This can be accomplished by leaving as little as one foot of the commercial use lot zoned residential where it abuts the street." She explained that the public might be mislead in thinking that their entire lot can be zoned commercial, thus having a commercial access onto a residential street. The amendment requiring a one foot buffer remain zoned residential, however, restricts that person to only having commercial access from Hendersonville Highway, which some lots do not have.

Councilman Worley felt that the one foot buffer amendment is a compromise which allows the businesses that lost frontage on Hendersonville Highway (due to the widening) an opportunity to pick up some space in the rear of their businesses and yet prevents Reed Street from being opened up for commercial traffic by providing a buffer to the neighborhood. He felt the ideal solution is to have the landscape ordinance amended to require buffering where residential abuts a commercial zone across the street (now the street is the buffer). But, until the landscape ordinance can be adopted, he feels this one foot buffer amendment is a temporary solution.

It was the consensus of Council to keep the one foot buffer amendment to provide protection to the neighborhood.

Vice-Mayor Ellison said that members of Council have been furnished with a copy of the resolution and it would not be read.

Councilman Worley moved to adopt Resolution No. 93-103 (Plan C), as amended (the amendment adopted on May 11, 1993, relative to the one foot buffer); the inclusion in the Plan that traffic signals should be synchronized for smoother traffic flow; and the inclusion in the Plan that the speed limit on Hendersonville Highway should be monitored for the safest route speed. This motion was seconded by Councilman Swicegood and carried on a 4-1 vote, with Councilman Moore voting "no."

Councilman Moore felt that he could not support the plan as written.

Councilwoman Field strongly supported the process the Corridor Plan went through and supported the 2010 Plan but was not comfortable with the Plan after it went to the Planning and Zoning Commission. She stated that this is an

ongoing process and will be looked at again through the unified development ordinance process. She understood the plight of the businesses and the needs of the neighborhoods and stated it was difficult for her to vote on this issue.

RESOLUTION BOOK NO. 21 - PAGE 8

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE MEETINGS HELD ON JUNE 22, 1993, AND JUNE 29, 1993

B. RESOLUTION NO. 93-104 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH BILLY G. REESE FOR THE RENTAL OF CITY PROPERTY LOCATED AT ROUTE 1, BEE TREE ROAD, BUNCOMBE COUNTY, SWANNANOA, NORTH CAROLINA

Summary: The City owns a house at Bee Tree Lake which has been occupied by Mr. Billy Reese until his retirement. Mr. Reese wishes to continue his residence at that location, at a monthly rental rate of $225.00 or $2,700 annually.

RESOLUTION BOOK NO. 21 - PAGE 33

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. SMOKERS' POLLUTION

Vice-Mayor Ellison stated that the Council did receive the ordinance presented on June 8, 1993, concerning the smoking pollution control ordinance and that the Council will be holding a worksession in the near future followed by a public hearing on any proposed ordinance. He assured the audience that if any action was taken, it would be before October 1, 1993.

Ms. Sheila Pratt, Coordinator of the Western North Carolina Group Against Smokers' Pollution, urged the Council to adopt the smoking pollution control ordinance presented on June 8, 1993 which would guarantee the right of nonsmokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air should have priority over the desire to smoke. She urged the Council not to let Raleigh govern what Asheville should or should not do.

Mr. John Mansfield spoke in support of the smoking pollution control ordinance.

Mr. Bob Tinkler, presented Council with a statement and news clippings. He stated, among other things, that (1) the anti-smoker proposal deals with where, not whether, a person can smoke; (2) the timing of getting an ordinance passed is essential; (3) the ordinance can be flexible to allow for local control by the City and also by private owners of certain public places and facilities; and (4) act now and not wait for Raleigh to pre-empt our local control.

B. CLAIMS

Assistant City Manager Penny said the following claims have been received by the City during the week of June 28 - July 2, 1993: Jeanelle Hiott (Streets) and Donna Jackson (Water).

He also said that the following claim has been received by the City for the week of July 5-9, 1993: Joe Bennett (Police).

He said that these claims have been referred to the appropriate insurers for investigation.

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 5:10 p.m.

William D. Wolcott, Jr. — CITY CLERK

W. M. Nichols — MAYOR

	Mr. D's Cleaning Service	Duraclean by Luxury Services	Garrison's Janitorial Service	Poore's Janitorial Service	Skyland Janitorial Service	ISS Servi-system Inc.	Davidson's Janitorial Service
Base Bid City Hall							
Yearly	48,000	49,500	55,208.04	71,000	76,000.08	74,364	60,000
Monthly	4,000	4,125	4,600.67	5,916.66	6,333.34	6,197	5,000
Alternate 1 Public Works							
Yearly	20,340	18,000	29,337.24	18,000	24,000	25,776	42,000
Monthly	1,695	1,500	2,444.77	1,500	2,000	2,148	3,500
Alternate 2 Purchasing Division							
Yearly	2,400	3,000	1,700.88	2,704	6,000	8,028	3,000
Monthly	200	250	141.74	225.33	500	669	250
Alternate 3 Downtown Development							
Yearly	2,400	5,400	3,618.96	2,704	6,000	6,720	12,000
Monthly	200	450	301.58	225.33	500	560	1,000
Totals							
Yearly	73,140	75,900	89,865.12	94,408	112,000.08	114,888	117,000
Monthly	6,045	6,325	7,488.76	7,867.32	9,333.34	9,574	9,750
Total of City Hall, Alternate 2 and 3	52,800	57,900	60,527.88	76,408	88,000.08	89,112	75,000

Tuesday - July 20, 1993 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 93-105 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE REEVES O'NEIL FISHER

Vice-Mayor Ellison read the resolution stating that Reeves O'Neil Fisher has been an employee for 9 years and has requested retirement from his position as Line Maintenance Worker I. He expressed City Council's appreciation to Mr. Fisher for his service to the City of Asheville and its citizens.

Resolution No. 93-105 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 35

B. RESOLUTION NO. 93-106 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM LEE LYTLE

Vice-Mayor Ellison read the resolution stating that William Lee Lytle has been an employee for 6 years and has requested retirement from his current position as Labor Crew Leader in the Water Department. He expressed City Council's appreciation to Mr. Lytle for his service to the City of Asheville and its citizens.

Resolution No. 93-106 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 36

C. RESOLUTION NO. 93-107 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM ARBOGAST

Vice-Mayor Ellison read the resolution stating that William Arbogast has been an employee for 11 years and has

requested retirement from his position as Line Maintenance Worker I. He expressed City Council's appreciation to Mr. Arbogast for his service to the City of Asheville and its citizens.

Resolution No. 93-107 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 37

D. RESOLUTION NO. 93-108 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ALVIN BALLARD

Vice-Mayor Ellison read the resolution stating that Alvin Ballard has been an employee for 32 years and has requested retirement from his position as Firefighter Senior in the Asheville Fire Department. He expressed City Council's appreciation to Mr. Ballard for his service to the City of Asheville and its citizens.

Resolution No. 93-108 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 38

II. PUBLIC HEARINGS: None

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. REPORT ON THE URBAN TRAIL

Ms. Grace Pless thanked the various departments of the City for their help with the Urban Trail and updated the Council on the 1-1/2 mile loop downtown. She highlighted the 27 different stations.

Vice-Mayor Ellison thanked the members of the committee who worked on the Urban Trail and expressed Council's appreciation for their efforts and hard work.

B. RESOLUTION NO. 93-109 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, ESTABLISHING THE INTEREST RATES TO BE BORNE BY THE CITY'S $1,300,000 STREET AND SIDEWALK BONDS, SERIES 1993A, $500,000 STREET AND SIDEWALK BONDS, SERIES 1993B AND $10,305,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 1993C AND CORRECTING CERTAIN PROVISIONS OF THE BOND RESOLUTION

City Manager Bean said that City Council adopted resolutions authorizing $1,300,000 Street and Sidewalk

Bonds, 1993 Series A; $500,000 Street and Sidewalk Bonds, 1993 Series B; $11,500,000 Refunding Bonds, 1993 Series C on May 18, 1993. This resolution confirms the details of the sale of those bonds. He said the Series A and B Bonds will provide new funding for street and sidewalk repairs. The Series C Bonds refund the 1987 and 1988 Street and Sidewalk Bonds. The refunding will save approximately $596,000 over the remaining life of the bond.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-109. This motion was seconded by Councilman Moore and carried unanimously.

Councilwoman Field moved to authorize Vice-Mayor Ellison to sign any documents relative to the closing on this bond sale in the event Mayor Michalove is not back in town at the time of closing. This motion was authorized by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 39

C. ORDINANCE NO. 2041 - BUDGET AMENDMENT TO APPROPRIATE HOME INVESTMENT PARTNERSHIP PROGRAM GRANT FOR ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mr. Marvin Vierra, Community Development Coordinator, said that the City has recently received notification of approval of $837,000 from the U.S. Department of Housing and Urban Development HOME Investment Partnership Program for the Asheville Regional Housing Consortium. The City, as Lead Entity of the Consortium, will administer the program through the Community Development Division. The allocation of these funds were approved by the City Council on March 2, 1993, in Resolution No. 93-32. This ordinance will appropriate the $883,956 into the budget under the HOME Investment Trust Fund - Asheville $46,956, Buncombe County $40,262, Madison County $6,660, and NCHFA $97,500.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2041. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2041 passed on its first and final reading.

ORDINANCE BOOK 14 - PAGE 3

D. ORDINANCE NO. 2042 - BUDGET AMENDMENT TO APPROPRIATE NINETEENTH YEAR CDBG ENTITLEMENT GRANT FUNDS

Mr. Marvin Vierra, Community Development Director, said that the City has received approval from HUD for the 19th Year CDBG program in the amount of $1,481,000. Program income is estimated to be $12,000 for a total budget of $1,493,000. This ordinance will appropriate the funds into the budget for the year beginning July 1, 1993.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2042. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2042 passed on its first and final reading.

ORDINANCE BOOK 14 - PAGE 6

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE MEETING HELD ON JULY 13, 1993.

B. RESOLUTION NO. 93-110 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL A SURPLUS FIRE TRUCK AT PUBLIC AUCTION

Summary: This truck was previously approved by City Council by Resolution No. 93-100 for private sale. Subsequent to published notice, other interest has been expressed.

At the request of Councilman Swicegood, City Manager Bean said that he would provide the Council with a report relative to possible refurbishment of the fire trucks versus sale as surplus property.

RESOLUTION BOOK NO. 21 - PAGE 42

C. RESOLUTION NO. 93-111 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AND OFF ROAD EQUIPMENT AT PUBLIC AUCTION

Summary: This resolution will authorize the Purchasing Director to sell surplus motor vehicles and off road equipment at public auction on September 11, 1993.

RESOLUTION BOOK NO. 21 - PAGE 44

D. MOTION SETTING A PUBLIC HEARING ON AUGUST 3, 1993, TO AMEND THE ZONING ORDINANCE TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

E. MOTION SETTING A PUBLIC HEARING ON AUGUST 3, 1993, TO AMEND THE ZONING ORDINANCE TO PARTIALLY REZONE ON PINEY MOUNTAIN DRIVE FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

Councilman Moore moved for adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. BELE CHERE 1993

On behalf of City Council, Vice-Mayor Ellison urged everyone to attend Bele Chere 1993 and have fun and be safe.

B. GEORGE SATTERFIELD - DISCONTINUANCE OF BUS ROUTE #3

Representing a number of individuals, Mr. George Satterfield pleaded with the City Council not discontinuing Route #3 to the Biltmore Square Mall. He stated concerns that Ms. Wanda Winslow, Chairman of the Transit Authority, knew that the bus route would be discontinued in January of 1993 and public hearings were not held until July of 1993. He urged the Council not to discontinue the route because it was the only means of transportation for many individuals.

Councilman Moore sympathized with the individuals but stated that two years ago the route was started on an experimental basis only. Since that time, there just has not been enough riders to offset the money spent on the route.

Vice-Mayor Ellison stated that since the area is still developing quickly, a worksession with the Transit Authority would be requested in order to see if there might be an alternate way to offset the Transit Authority's financial

concern and still keep the bus route operable. He said that the Council would request a copy of the Transit Authority's minutes of the public hearing held concerning the discontinuance of the bus route.

C. **RALPH BISHOP**

Mr. Ralph Bishop urged the Council to take whatever steps necessary to stop the operation of a gambling establishment by the river.

VII. ADJOURNMENT.

Vice-Mayor Ellison adjourned the meeting at 4:45 p.m.

William F. Wolcott, Jr. H. M. Nicholson

CITY CLERK MAYOR

Tuesday - July 27, 1993 - 2:00 p.m.

City Council Work Session

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field, Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; Assistant City Attorney Patsy Brison; and City Manager Douglas O. Bean.

Absent: Councilman William G. Moore

TOURISM DEVELOPMENT AUTHORITY PRESENTATION

The Tourism Development Authority presented City Council with a report of their recent activities and plans for the future marketing of our area.

SANITATION BID SPECIFICATIONS

After hearing a report relative to proposals that were recently received for privatizing sanitation services and recommendations from City staff, it was the consensus of Council not to contract for sanitation services. The Council unanimously adopted staff recommendations as follows: (1) with the purchase of new vehicles, reduce crew sizes from 3 to 2 persons; (2) supplement the current leaf collection process with a bag system; (3) locate additional recycling drop off facilities during 1993/94; (4) develop recommendations on a city-wide variable rate solid waste collection and recycling program by January 1, 1994, that could be implemented by July 1, 1994; and (5) include opportunities for private companies to bid on components of city-wide solid waste collection and recycling program.

MEETING WITH WLOS-TV

Mr. Jim Conschafter, General Manager of WLOS-TV, explained some of the impacts that the new Cable TV Act will have on his station and other local broadcast stations.

Mayor Michalove stated that TCI Cable would be allowed to make a presentation concerning their side of the issue on Tuesday, August 3, 1993, at 3:00 p.m.

DISCUSSION WITH THE ASHEVILLE TRANSIT AUTHORITY

After confirming with City Manager Bean that the City could find an additional $16,000 to continue the bus route which includes Biltmore Square Mall (Route 3) on a limited basis, Vice-Mayor Ellison moved to continue Route 3 on a limited basis (8:30 a.m., 1:30 p.m. and 4:30 p.m.), with

funding for that route totaling $16,000. This motion was seconded by Councilman Peterson and carried unanimously.

Councilman Worley moved that a resolution be placed on Council's agenda which would request that the Asheville Transit Authority be allowed to enter the Biltmore Square Mall property for the convenience of bus passengers. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION NO. 92-174 - RESOLUTION ESTABLISHING THE CITY OPERATIONS ADVISORY COMMISSION

Councilman Worley recommended the following amendments to Resolution No. 92-174: (1) changing the composition of the Commission from 5 to 7 members; (2) changing the selection of officers in order that the Chairman and Vice-Chairman of the Commission both be appointed by the City Council; (3) changing the term of embodiment from January 1, 1995, until January 1, 1996; (4) changing the requirement that recommendations be made not only to the City Manager but also to the City Council for the implementation of changes in methods, etc., in order to perform the operations of a department in a more efficient manner; and (5) changing the wording in the Charge of Members to read as follows "The Commission should avoid all matters pertaining to employment of individual City employees, ..."

Vice-Mayor Ellison moved to amend Resolution No. 92-174 as outlined by Councilman Worley. This motion was seconded by Councilwoman Field and carried unanimously.

BOARD AND COMMISSION APPOINTMENTS

Council discussed appointments to various boards and commissions which had or will have vacancies occurring in the near future. Any appointments made will be placed on Council's agenda on August 3, 1993.

EXECUTIVE SESSION

Vice-Mayor Ellison moved to go into an executive session to discuss a matter related to a proposed real estate purchase. This motion was seconded by Councilman Worley and carried unanimously.

ADJOURNMENT

Upon return to open session, the meeting was adjourned at approximately 5:35 p.m.

Brenda S. Walker, CMC
CITY CLERK

H. W. Richardson
MAYOR

Tuesday - August 3, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Vice-Mayor Ellison gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove opened the public hearing at 4:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that this lot, located one block east of Hendersonville Road, has access only off of Reed Street. The subject property shares a property line to the north with the McClain property recently rezoned from R-3 Residential District to CH Commercial Highway District (except for one foot parallel to Reed Street).

On July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of 720 Reed Street from R-3 Residential District to CH Commercial Highway District.

Mr. Tom Cooke, owner of 717 Reed Street, questioned the use of the property but did not object to the rezoning.

Mr. Rodney Leftwich, owner of 720 Reed Street, spoke in support of the entire lot being rezoned (not leaving a one foot parallel to Reed Street as was done with the McClain rezoning). He stated that he would like to set up a pottery business in his home at 720 Reed Street. He explained that if the Council rezoned his property CS Commercial Service

except for the one foot parallel to Reed Street, he would not be able to use his property as CS Commercial Service because he would not have any access from Reed Street. He urged the Council to rezone the entire lot and felt that Reed Street already has a lot of commercial traffic on it and his access would not cause much more.

Upon inquiry of Councilwoman Field, Ms. Pennell stated that Mr. Leftwich had no appeal to the Board of Adjustment.

Council explained to Mr. Leftwich that when it recently adopted the Hendersonville Road Corridor Plan amendment to the 2010 Plan, the amendment included trying to keep commercial traffic off of Reed Street through the use of a one foot R-3 Residential District buffer parallel to Reed Street. Therefore, they told Mr. Leftwich that his proposal would be inconsistent with their recently adopted Corridor Plan.

Councilwoman Field moved to continue the public hearing until August 17, 1993, without further advertisement, in order to give the Council an opportunity to tour the area and find possible alternatives to Mr. Leftwich's problem. This motion was seconded by Councilman Worley and carried unanimously.

B. GUEST

At this time, Mayor Michalove recognized the Mr. Johnson, Mayor of Stanton, Tennessee, who is visiting Asheville.

C. PUBLIC HEARING TO PARTIALLY REZONE TWO PROPERTIES ON PINEY MOUNTAIN DRIVE FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2043 - ORDINANCE AMENDING ZONING OF TWO PROPERTIES ON PINEY MOUNTAIN DRIVE FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

Mayor Michalove opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the site is located in the northeast quadrant of the intersection of I-240 and Chunn's Cove Road. The total acreage of the two parcels is 42.4 acres; however, a partial rezoning of 16.102

acres is sought from R-2 to OI. In general, the site is located on the western slope of Piney Mountain. The area of specific concern is a relatively level area located on the western 1/4 of the property. This portion was reportedly used as a disposal area for shot rock during the construction of the I-240 cut through Beaucatcher Mountain in 1980. More recently, additional soil was placed on the site during construction of the nearby Wal-Mart store.

On July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of two properties on Piney Mountain Drive from R-2 Residential District to OI Office Institutional District.

Mr. Danie Johnson, representative of R. L. Coleman Sr. and R.B.R. & S.T. AN.C Limited Partnership, spoke in support of the rezoning stating several reasons why the area was unique. He explained why it should not be considered illegal spot zoning and why the 2010 Plan should not apply in this situation. He stated that the owner and Mountainbrook Homeowners Association have entered into a legal binding document which addresses any concerns the Association may have had. He stated that the Association has no objections to the proposed partial rezoning and endorses the change.

Mr. Harvey Scheviak, representative of the Mountainbrook Homeowners Association, spoke in support of the partial rezoning and stated that the Association supported the office park to be developed on the site.

City Attorney Slawter said that the Council would be considering the partial rezoning based on all the uses allowed in the OI Office Institutional District.

Councilman Worley commended the parties involved for working out their differences to bring about a proposed rezoning.

Mr. Johnson clarified some concerns raised by Ms. Jane Hildebrand.

Mayor Michalove closed the public hearing at 4:48 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2043. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2043 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 9

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

Vice-Mayor Ellison moved to continue this matter until October 26, 1993, due to a pending lawsuit. This motion was seconded by Councilman Worley and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-112 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT AND RELATED DOCUMENTS FOR THE INSTALLMENT PURCHASE OF TWO FIRE TRUCKS

City Manager Bean said that on January 5, 1993, City Council approved the purchase of one 50 foot aerial fire truck and one 75 foot aerial fire truck. The acquisition of these fire trucks via installment purchase has been contemplated in the City's Capital Improvement Program. This resolution would authorize execution of a contract and related documents necessary to accomplish the installment purchase of the trucks.

After some discussion on the "not to exceed" figure in the resolution, Vice-Mayor Ellison moved to amend the resolution to authorize the Mayor to execute any and all documents related to or necessary for funding the purchase of the two fire trucks for a principal purchase amount of $607,289, plus issuance costs. This motion was seconded by Councilwoman Field and carried unanimously.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Ellison moved for the adoption of Resolution No. 93-112, as amended. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 77

B. **RESOLUTION NO. 93-__ - RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 10) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO**

Mayor Michalove stated that this item would be postponed until August 17, 1993. However, Mr. H.R. Edgerton, who was awarded the bid for the brick sidewalk in Biltmore Village, spoke about the matter being postponed so often. He felt that the postponing of this item was costing his business a tremendous amount of money.

City Manager Bean explained that the bonds were just sold last week and as a result of that bond sale, funds were now available for Contract No. 10.

C. **BIDS RELATIVE TO PURCHASE OF ONE FIRE PUMPER WITH A 55 FOOT AERIAL AND ONE FIRE TRUCK WITH A 75 FOOT AERIAL**

Fire Chief John Rukavina said that sealed bids were invited to furnish the Fire Department with one fire pumper with 50 foot aerial and one fire truck with 75 foot aerial as budgeted in the Capital Improvement Program (CIP) for purchase in Fiscal Year 1993.

Bids were received and subsequently awarded by City Council to Slagle Fire Equipment/KME, Cayce, S.C., on January 5, 1993, for the purchase of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "FireStik" aerial in the amount of $824,028 including options, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "FireStik" aerial in the amount of $323,261 including options.

In view of the fact that the Fire Department had identical equipment in the CIP for purchase in Fiscal Year 1994, provisions were included in the invitation for bids issued in Fiscal Year 1993 requesting bidders to submit bids based on the purchase of either one fire truck or two fire trucks of the same type.

Slagle Fire Equipment/KME offers an extension of firm pricing through August 31, 1993, for acquisition of two fire trucks included in the Fiscal Year 1994 CIP. Therefore, it is recommended that City Council approve the purchase of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "Firestik" aerial

in the amount of $284,028, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "Firestik" aerial in the amount of $323,261 from Slagle Fire Equipment/KME, Cayce, S.C.

Funds for the lease/purchase of this equipment are budgeted in the Fire Department's CIP.

Upon inquiry of Councilman Swicegood, Fire Chief Rukavina stated that the average life of a fire truck is approximately 17 years and felt that with an on-going maintenance program, the life expectancy could be more.

District Chief Randy Bryant, Chairman of the Equipment Committee for the Fire Department, explained the process the Equipment Committee goes through in order to keep the equipment running properly.

Upon inquiry of Councilman Peterson, City Manager Bean said that there will be only 3 more replacement vehicles needed in the next 5 years for the Fire Department.

Vice-Mayor Ellison moved to awarded the bid of one 1993 KME "Renegade" cab and chassis with a KME 174 Streamline Aerial body and a KME 55 foot "Firestik" aerial in the amount of $284,028, and one 1993 KME "Renegade" MFD cab and chassis with a KME 177 Streamline Aerial body and a KME 75 foot "Firestik" aerial in the amount of $323,261 to Slagle Fire Equipment/KME, Cayce, S.C. This motion was seconded by Councilman Worley and carried unanimously.

D. ORDINANCE NO. 2044 - ORDINANCE AMENDING PROVISIONS OF THE CITY CODE RELATED TO HEATING AND AIR CONDITIONING CODE

Fire Chief John Rukavina said that on July 1, 1993, the City resumed responsibility for delivery of mechanical inspection services by the City's Building Safety Division, pursuant to City Council authorization. Since Article 3, Chapter 4 of the City's Code reflects the earlier contract with WNC Air Pollution, Chapter 4 (Section 4-102) needs to be amended to reflect the City Council's action.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2044. This motion was seconded by Councilwoman Field.

On a roll call vote of 2044, Ordinance No. 2044 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 13

E. CONSIDERATION OF PURCHASE OF PROPERTY FOR A SOUTH ASHEVILLE BALLFIELD

City Manager Bean said that City Council tentatively agreed to move forward developing baseball fields on the property owned by the City schools in the Oakley area. The County Commissioners have agreed to provide the funds to the City of Asheville to purchase the property and the School Board will be considering this offer on August 5, 1993. The City has a preliminary indication from the Board of Education that they will sell the property for the amount of money that they previously paid when they purchased the property and will allow the City to buy it over a 3 year period. The total purchase price will be $335,734 - 100% of the cost being paid by Buncombe County. The City has already begun surveying and developing a grading plan since the property will need to be graded and seeded no later than September in order to be ready for the spring baseball season. He said funds for the development of the property are in the Capital Improvements Program.

Mr. Johnny Wells, Coach, urged the Council to do whatever they could to be ready for the spring baseball season.

Mr. Roy Harris spoke in favor of the ballfield in Oakley, but hoped the Council would not forget the children who live in central Asheville.

Ms. Leni Sitnick, spoke in support of baseball activities and was assured that this purchase was not in lieu of the site located in east Asheville.

Vice-Mayor Ellison moved to authorize the City Manager to offer to purchase the Oakley property over a 3 year period from the Board of Education in the amount of $335,734. This motion was seconded by Councilman Peterson and carried unanimously.

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 20, 1993.

B. RESOLUTION NO. 93-113 - RESOLUTION AMENDING RULE 23 OF THE RULES OF PROCEDURE FOR THE ASHEVILLE CITY COUNCIL

Summary: With the adoption of the legislation eliminating the requirement for three votes on ordinances, a resolution needs to be adopted amending Rule 23 of the Rules of Procedure for the City Council.

RESOLUTION BOOK NO. 21 - PAGE 78

C. RESOLUTION NO. 93-114 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE A LOT LOCATED ON SAND HILL ROAD

Summary: The City owns a lot on Sand Hill Road. Mr. Jerry Eury has made an offer for the purchase of this property in the amount of $7,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. This resolution will direct the Clerk to advertise a notice which shall contain a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first $1,000 and 5% of the remainder of the offered price of $7,000.

RESOLUTION BOOK NO. 21 - PAGE 80

D. RESOLUTION NO. 93-115 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER TO PURCHASE A LOT LOCATED OFF MT. CARMEL ROAD

Summary: The City owns a lot off of Mt. Carmel Road. Mr. and Mrs. Winston Martin have made an offer for the purchase of this property in the amount of $10,000, which said offer being accompanied by 5% bid deposit received by the City Clerk. This resolution will direct the Clerk to advertise a notice which shall contain a general description of that property, the amount and terms of the offer and a notice that within 10 days any person may raise the bid by not less than 10% of the first $1,000 and 5% of the remainder of the offered price of $10,000.

RESOLUTION BOOK NO. 21 - PAGE 81

E. RESOLUTION NO. 93-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE SKYLAND FIRE DEPARTMENT FOR JOINT PURCHASE AND MAINTENANCE OF A FIRE TRUCK

Summary: In 1988, the City and the Skyland Volunteer Fire Department Inc. entered into a contract for fire services in a substantial part of Skyland's fire district that had been annexed by the City. The 1988 agreement provided for joint purchase of firefighting equipment as Skyland's equipment aged to the point of replacement.

In 1991, City Council approved CIP funding for up to half the cost of replacing Engine 21, the primary fire rig operated at Skyland's Station 21 by Asheville firefighters. Since that time, Skyland Fire Department has ordered this fire truck. It is slated for delivery within the next two weeks. Skyland and City staff recommend an agreement between the City and Skyland that spells out ownership, maintenance and disposition responsibilities for the City and Skyland.

Funds for the City's share of this purchase ($123,404) are budgeted in the Fire Department's CIP.

RESOLUTION BOOK NO. 21 - PAGE 82

F. RESOLUTION NO. 93-117 - RESOLUTION APPOINTING J. RANDOLPH FLUHARTY JR. TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: The term of Steve Miller will expire on August 30, 1993. This resolution will appoint J. Randolph Fluharty Jr. to serve a 3 year term, term expiring August 30, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 87

G. RESOLUTION NO. 93-118 - RESOLUTION APPOINTING MEMBERS TO THE CITY OPERATIONS ADVISORY COMMISSION

Summary: Resolution No. 92-174 dated December 8, 1992, and amended on July 27, 1993, established the City Operations Advisory Commission. This resolution will appoint the following members: Tim Amos, Chairman; Skip Pearlman, Vice-Chairman; James P. Chakales; Will Creed; Mike Hunter; Charles Lawrence; and Wilma Sherrill.

RESOLUTION BOOK NO. 21 - PAGE 88

H. RESOLUTION NO. 93-119 - RESOLUTION REQUESTING ACCESS BY THE ASHEVILLE TRANSIT AUTHORITY TO A DESIGNATED BUS STOP ON THE BILTMORE SQUARE MALL PROPERTY

Summary: Closer bus service to the mall facility will greatly benefit mall workers and shoppers. The Transit Authority wishes to provide closer access to the mall entrance for its bus riders. The City has dedicated additional funding to maintain daily bus service to the Biltmore Square Mall for fiscal year 1994. This resolution will request access by the Transit Authority to a designated bus stop on the Biltmore Square Mall property.

Councilman Worley moved to approve the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. TONY PONDER

Mr. Tony Ponder, questioned an item questioned the Council about an intake on the South French Broad River.

City Manager Bean said that there is no final decision on that intake and that it is only one of many proposed sites.

B. CLAIMS

City Manager Bean said the following claims have been received by the City of Asheville during the week of July 12-16, 1993: Geraldine Edgerton (Streets); Southern Bell (Water); Alan O'Donnell (Police); Carroll Williams (Water); NC DOT (Streets); Charles Beaver (Water) and Teresa Nelson (Streets).

He said the following claims have been received by the City during the week of July 19-23, 1993: William J. Miller (Streets); Elaine Brandau (Streets); Bobby W. Bane (Streets); and Glenn Shelton (Water).

He also said that the following claims have been received by the City during the week of July 26-30, 1993: Kristin Grady (Water); Mike Burnette (Streets); William Eubanks (Water); Taneqwa Williams (Parks); Don Hess (Water); River Ridge Mall (Police); Doris W. Loftis (Police); Barlow Service Co. (Sanitation); Wolfgang Reinert (Water); M. B. Haynes (Water); and Elbert Davis (Streets).

He said these claims have been referred to the appropriate insurers for investigation.

C. LAWSUITS

City Manager Bean said that the City was served with the following lawsuits on July 12, 1993: Bobby W. Bane (negligence, unlawful construction, public nuisance) and APAC-Carolina, Inc., Asheville Division (breach of contract).

He said these lawsuits have been referred to the appropriate legal counsel for action.

At this time (6:42 p.m.), the Council recessed until 7:00 p.m. at the Civic Center in the Banquet Room.

VI. OTHER BUSINESS: Continued

PRESENTATION REGARDING ESTABLISHMENT OF A STORMWATER DRAINAGE UTILITY

Mayor Michalove opened the meeting up at 7:00 p.m. Vice-Mayor Ellison arrived at the meeting at 7:50 p.m. and Councilman Moore was out of town.

City Manager Bean made a presentation relative to the stormwater issue. He explained several items while showing slides which outlined (1) the history of the stormwater issue; (2) the 34 Stormwater Advisory Committee information meetings; (3) the current situation; (4) public need; (5) private need; (6) the stormwater utility contract; (7) the street and sidewalk bond program cost distribution by type of construction; (8) drainage projects and estimated costs; (9) levels of effort regarding the collection system; (10) stormwater control division's five year budget; (11) a revenue analysis; (12) explanation of the utility fee; (13) an annual stormwater utility revenue potential; (14) a comparison of actual values (ERU charge/assessment valuation); (15) EPA regulations; and (16) a summary as follows: (a) currently the City only maintains that 20% of the stormwater system that is located in public rights-of-way; (b) the City system is part of a total system that includes both point and non-point discharges; (c) except for erosion control measures, all stormwater controls, construction and maintenance on private property (80%) is the responsibility of private land owners; and (d) is the responsibility for stormwater systems a public or private good to be funded individually or collectively?

Mr. Robert Weaver, representative of the Crowfields Community Association, read a prepared statement soliciting Council's affirmative vote for the passage of a stormwater ordinance for the City of Asheville.

Mr. Tracy McFarlan, President of Crowfields, used a map to explain the stormwater problems at Crowfields and echoed Mr. Weaver's comments which supported a stormwater ordinance.

Mr. Edward Rutkowski, a resident at Crowfields, spoke in support of a stormwater ordinance.

Ms. Barber Melton, representing the Coalition of Asheville Neighborhoods, spoke in support of a utility fee being established.

Councilmembers discussed at length the options available to them which included bringing a bond referendum to the public, the collection of revenue by either adoption of a utility fee or collection through property taxes, or a combination thereof.

Vice-Mayor Ellison moved to authorize the City Manager to (1) identify the City's worst stormwater problem areas, (2) determine the amount of money it would take to fix those problem areas; (3) develop a program, in preparation of a bond referendum, to address those problem areas; and (4) work on developing controls to guide developers in creating stormwater drainage systems. This motion was seconded by Councilman Peterson and carried unanimously.

VII. ADJOURNMENT

Mayor Michalove adjourned the meeting at 9:10 p.m.

Marian D. Merritt
CITY CLERK

I. W. Michalove
MAYOR

Tuesday - August 17, 1993 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Eugene W. Ellison, Presiding; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Kenneth M. Michalove (out of town)

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING ON VARIANCE REQUEST FOR APPALACHIAN WAY IN HOMEWAY SUBDIVISION

Vice-Mayor Ellison said that this public hearing was opened on June 29, 1993, and continued until this date due to some issues raised at the public hearing.

Mr. Tony Nicholson, Urban Planner, reviewed the variance request stating that Gus Barlas is seeking preliminary plat approval of a subdivision to be located in West Asheville along Homeway Road. While a small portion of the property is located within the City, most of the property and all of a proposed street is located in the extra-territorial jurisdiction. The four acre property is to be subdivided into six lots. In order to provide access to three of the lots, the developer must extend Appalachian Way within its existing platted right-of-way. This will entail a 275-foot extension of Appalachian Way to be constructed to DOT standards.

Although a 40 foot wide right-of-way exists for Appalachian Way, this portion of the street has never been constructed. While the developer has proposed to widen the right-of-way to 45 feet to meet DOT street standards, the Asheville Subdivision Regulations requires a minimum width of 50 feet for subdivision streets. Therefore, a variance of 5 feet on the required right-of-way width is requested.

The Asheville Subdivision Regulations authorizes the Planning and Zoning Commission to recommend and City Council to grant variances from the regulations when the developer can show that a provision should be modified due to topographical or other conditions peculiar to the site.

At City Council's June 29, 1993, meeting, the variance request was tabled to allow time for a number of issues to be resolved with the neighborhood. The issues are as follows:

1. Type of Homes to be Constructed - Mr. Barlas does not intend to build homes on the lots. Rather, he will sell the lots individually to prospective buyers. Therefore, the exact type and size of houses to be constructed is unknown at this point. However, the R-3 zoning district does not permit manufactured homes within the district. All houses must meet the North Carolina Building Code.

2. Extent of New Road Construction - Several residents in the neighborhood voiced concerns about the extent of road construction on the existing Appalachian Way and Honeysuckle Lane. There will be no modifications to any existing road in the area. The new construction will entail a 275' extension of Appalachian Way.

3. Impact of the Variance on Surrounding Properties - This variance does not directly affect properties adjacent to the proposed road extension. If the variance is granted, the road will have a 45' wide right-of-way. If the variance is denied, the road will have a 50' wide right-of-way and Mr. Barlas will be forced to reduce the size of some of the lots to accommodate the full 50' wide right-of-way.

4. Impact of the New Road Construction on Mr. and Mrs. Gosnell's Private Water Line Which lies in the Platted Right-of-Way - The Gosnell's private water line is partially located in the path of the proposed road. Questions exist concerning who is liable if the water line is damaged during construction and who is responsible for future maintenance of the water line. With the assistance of the Legal Department, the following statements were prepared to address this issue of the future maintenance of the water line.

1. Since the roadway is a platted public right-of-way which permits all abutting lots use of the roadway for ingress and egress, the Gosnell's have installed the water line at their own risk.

2. The Gosnell's would be responsible for future maintenance of the water line and replacement of any pavement that might be damaged in connection with repairs to the water lines.

3. Gus Barlas has agreed to pay for the cost of repairing the Gosnell's water line if it should be damaged during the construction of the street.

Upon inquiry of Councilwoman Field, Mr. Nicholson said that the variance is being requested due to the topographical condition of the site.

Councilman Moore questioned what kind of hardship there is to grant this variance.

Mr. Gus Barlas urged the Council to grant his variance.

Mr. Kenneth Mills, President of Blue Ridge Land Surveying, answered questions relative to the amount of money which Mr. Barlas would have to spend if the variance was not granted. He spoke in support of the granting of the variance.

Vice-Mayor Ellison closed the public hearing at 4:26 p.m.

Councilman Peterson moved to grant a variance of 5 feet, from the required 50 foot right-of-way width for subdivision streets, for Appalachian Way in Homeway Subdivision. This motion was seconded by Councilman Swicegood and carried on a 5-1 vote, with Councilman Moore voting "no".

B. CONTINUATION OF PUBLIC HEARING TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE NO. 2045 - ORDINANCE AMENDING ZONING OF 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Vice-Mayor Ellison said that this public hearing was opened on August 3, 1993, and continued until this date in

order to give the Council members an opportunity to tour the area and consider possible alternatives to Mr. Leftwich's problem.

Ms. Carol Pennell, Urban Planner II, reviewed with Council the request by stating that this lot, located one block east of Hendersonville Road, has access only off of Reed Street. The subject property shares a property line to the north with the McClain property recently rezoned from R-3 Residential District to CH Commercial Highway District (except for one foot parallel to Reed Street).

She said that on July 7, 1993, the Planning and Zoning Commission reviewed and recommended approval of the rezoning of 720 Reed Street from R-3 Residential District to CH Commercial Highway District.

She said that City Council has received a petition containing 27 names of owners and renters along Reed Street which supports rezoning request. The petition reads as follows:

"We, the undersigned, owner's and renter's of property along Reed Street in Asheville, North Carolina, petition the City Council to: 1. Allow rezoning of property at 720 Reed Street, listed as PIN Number 9647-16-84-4015, from residential to commercial. 2. Remove the one foot residential buffer along the west side of Reed Street." He said that the petition shows unanimous support for his proposed rezoning with the elimination of the one foot residential buffer on the west side of Reed Street.

Councilwoman Field suggested continuing this rezoning request until after the Council was presented with a landscape ordinance, which should be in draft form in October.

Councilman Moore felt that the City needed to stop the encroachment of commercial uses into neighborhoods.

Vice-Mayor Ellison said that he would support the total rezoning of the property due to the hardship it would cause the property owner if they only rezoned all but the one foot strip along Reed Street.

Vice-Mayor Ellison closed the public hearing at 4:39 p.m.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2045. This motion was seconded by Councilman Peterson.

On a roll call vote of 4-2 (with Councilwoman Field and Councilman Moore voting "no"), Ordinance No. 2045 passed on its first reading.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. ORDINANCE AMENDING CHAPTER 30 TO SET FORTH CONDITIONS REQUIRED OF CHURCHES IN RESIDENTIAL DISTRICTS (CONDITIONAL USE PERMIT REQUIREMENTS)

Vice-Mayor Ellison stated that the public hearing on this matter was held on June 29, 1993.

Ms. Julia Cogburn, Planning Director, reviewed with the Council the proposed amendment stating that churches are currently identified as conditional uses in the R-1, R-2, and R-3 Residential Districts. A minimum number of conditions which churches in these districts must meet are set forth in the existing Section 30-7-1.A. The conditions currently in use do not adequately address the issues confronting the development/expansion of churches in residential districts. Working with representatives of churches and residential neighborhoods, the Planning staff developed the revised conditions to address these issues. The draft ordinance has been reviewed by the Asheville Planning and Zoning Commission and unanimously recommended for adoption at their May 5, 1993 meeting.

She then briefly reviewed the recommended changes in the ordinance.

She gave the following report on some questions that were raised at the public hearing:

REQUEST FOR REPORT ON BOARD OF ADJUSTMENT ROLE TO DATE/LEGAL ISSUES

The Board of Adjustment has dealt over the past three years with at least three matters regarding the expansion of existing church facilities in residential districts where these facilities are only allowed upon the issuance of a conditional use permit. Below is a brief summary of three issues the Board has dealt with:

1. Grace Episcopal Church

   - applied to Board in August of 1990 for conditional use permit and variances to required condition that any activity be located no closer than 40 ft. to any property line

   - granted conditional use permit and variances in October of 1990

   - submitted revised plan for conditional use approval and variances of the same nature and had conditional use approved but variances denied in May, 1991

   - applied for rehearing in early 1992; April of 1992 conditional use again approved and variances again denied.

2. Merrimon Avenue Baptist Church

   - in March of 1991 the church was granted a conditional use permit and variance from buffering and bufferyard conditions

   - in March of 1992 a new review was conducted (new plan/variance expired); conditional use denied

   - litigation (appeal to Superior Court from Board's decision) is pending; court date has been postponed until the issue of the proposed amendment is resolved

3. Midway Church

   - late 1992 were scheduled to appear before Board but pulled application after being advised by staff that Board did not have the power to vary conditions set forth in the ordinance for conditional use approval (see below)

In each of these cases the Board should not have waived or varied any of the conditions set forth in the zoning ordinance for conditional use approval of churches in residential districts. In conditional use cases the Board sits to examine the factual evidence of a project to determine if conditions specified in the ordinance have been met.

Numerous North Carolina Appellate decisions have dealt with the importance of Boards of Adjustment following ordinance provisions exactly. The principal case cited, Chambers v. Board of Adjustment 250 N.C. 195, 108 S.E. 2d (1959), specifically addressed this issue. In this case the North Carolina Supreme Court made it clear that the Board of Adjustment has no authority to waive or modify specific requirements set forth in an ordinance when passing on special use applications.

REPORT ON OTHER CONDITIONAL USES IN RESIDENTIAL DISTRICTS AND THE REQUIREMENTS FOR THESE USES COMPARED TO CHURCHES

The following uses are listed as conditional uses in the R-1, R-2, and R-3 districts in the City of Asheville Zoning Ordinance: schools having a curriculum the same as given in public schools; churches; repositories for ashes of human remains when used as an ancillary use on the same site as a church; mountainside residences; conversion of existing nonconforming apartment buildings to condominium ownership (in R-1 only).

The R-3 district lists the following additional conditional uses: nursery schools; kindergartens, convalescent and nursing homes; homes for the aged; fraternal and philanthropic organizations; greenhouses and commercial nurseries; professional offices (on lots adjacent to certain commercial corridors).

She showed the Council a chart comparing conditional use requirements as set forth in the City's ordinance for several of these conditional uses. She stated that the chart reflects only conditional use requirements and does not reflect regulations found in the use district section of the ordinance.

Council had received a petition containing 104 signatures which reads:

"We, the undersigned, request of City Council that the conditional uses for churches in R-1, R-2, and R-3 residential districts be amended as follows: 30-7-1(A)4.a -- No parking or other activity shall be located less than twenty (20) feet from any property line...

to be deleted and changed as follows:

30-7-1(A)4.a -- No parking or other activity shall be located less than twenty (20) feet from any property line unless there is an agreement between the parties. In the

event of such an agreement, and only in that event, the Board of Adjustment shall permit the setback to be reduced to that agreed upon between the parties, but in no event shall the setback be less than ten (10) feet from any property line."

Mr. Bill Whalen, 38 Woodward Avenue, spoke against reducing the 40 foot setback. He urged the Council not to vote on the issue today but study the issue further.

Ms. Barbara Hodgson, 107 Evelyn Place, spoke in opposition to the change in setback.

Mr. Dave Hillier, speaking on behalf of Grace Episcopal Church, spoke in favor of the proposed ordinance. He felt the ordinance was fair and was confident that the church would work closely with the neighborhood to buffer the property.

Mr. John Cort, member of Grace Episcopal Church, felt that the 20 foot setback would provide adequate buffer.

Rev. William Edwards, Grace Episcopal Church, spoke in support of the proposed ordinance.

Mr. Mike Lewis, 48 Gracelyn Road, felt that the City needed to preserve neighborhoods and spoke against anything less than a 40 foot setback.

Mr. Monty Wooten, 81 Euclid Boulevard, spoke against reducing the setback to 20 feet. He mentioned several reasons for keeping the 40 foot setback.

Ms. Kathy Gleason, Mediator, spoke about the mediation process that has occurred between the Merrimon Avenue Baptist Church and the surrounding neighborhood.

Mr. Fred Lewis, 38 Haw Creek Circle, spoke in opposition of the proposed ordinance.

Rev. Ben Sloan, 8 Crown Street and Pastor of West Asheville Presbyterian Church, spoke in support of the proposed ordinance.

Mr. Daniel Green, 129 Charlotte Street, felt that City Council should not get involved in church matters unless it relates to a safety or health concern.

Mr. Paul Mittman, 38 Ottari Road, urged the Council to protect the neighborhoods and keep the 40 foot setback requirement.

Ms. Carolyn Wallace, 19 Austin Avenue, spoke against the proposed ordinance for several reasons.

Mr. Neal Pyatt, 5 Farrwood Avenue, spoke in support of the proposed ordinance.

Dr. Billy Cline, Pastor of the Merrimon Avenue Baptist Church, spoke in support of the proposed ordinance in that the churches are trying to meet the needs of their congregation.

Mr. Bud Corbin, 60 Audubon Drive, spoke in support of the proposed ordinance and felt that churches are good neighbors.

Mr. Bobby Peek, member of the Merrimon Avenue Baptist Church, spoke in support of the proposed ordinance.

Mr. Dennis Hodgson, 107 Evelyn Place, urged the Council not to pass the proposed ordinance and try to preserve the trees.

There was discussion amongst Council relative to the setback requirements.

Vice-Mayor Ellison stated that Mayor Michalove preferred to look at each situation on a case by case basis instead of amending the ordinance as recommended.

At the request of Vice-Mayor Ellison, City Attorney Slawter suggested an amendment that would provide for a variable setback to be determined by the Board of Adjustment as part of the conditional use application process.

Councilman Moore moved to table this matter until August 31, 1993, without further advertisement, in order to give the City Attorney's Office and the Planning Department time to research the language suggested by City Attorney Slawter. This motion was seconded by Councilwoman Field and carried unanimously.

At this time (6:00 p.m.) it was the consensus of Council to take a 5 minute break.

B. FINAL PLAT APPROVAL FOR PHASE II OF DEVONSHIRE SUBDIVISION

This item was deleted from the agenda.

C. RESOLUTION NO. 93-120 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING THE CLAIMS ADMINISTRATION CONTRACT WITH ASHEVILLE CLAIMS CORPORATION AND RELATED MATTERS

City Manager Bean said that the City has been paying in excess of $1,300,000 for deductible insurance coverage annually and additional funds for Worker's Compensation claims. Insurance claims against the City have been continually within the deductible amount and have been in the annual range of $170,000. It has been determined that a self insurance fund, initially supported by funds obtained by the Asheville Claims Corporation and the accumulated interest on that money, can pay Worker's Compensation and insurance claims. The current annual appropriation must remain relatively steady in future years in order to repay the obligations and leave a self-perpetuating claims fund at the end of ten years. This program will be funded by Certificates of Participation delivered by the Asheville Claims Corporation. The Corporation will act for the City in paying claims approved by the City. This resolution provides for approval of the contract terms between the City and the Asheville Claims Corporation. It obligates the City to appropriate annually funds sufficient to pay to the Corporation for the previously paid claims, administrative costs and repay obligations. There will be no increase in current appropriations but annual savings after ten years.

Vice-Mayor Ellison said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-120. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 90

D. RESOLUTION NO. 93-121 - RESOLUTION AWARDING THE BID FOR STREET AND SIDEWALK REHABILITATION PROJECT (CONTRACT NO. 10) TO APAC-CAROLINA, INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY AGREEMENTS RELATED THERETO

City Manager Bean said that the bids for Street and Sidewalk Improvements Contract No. 10 were received and opened on December 18, 1992. APAC-Carolina, Inc., was the low bidder on the project and it is recommended that the bid be awarded to APAC-Carolina Inc. as the lowest responsible bidder with a total bid in the amount of $1,628,674.50 for

Section 1, and $356,404.40 for Section 2, for a total base bid amount of $2,015,078.90. The total bid amount includes rehabilitation of sewer lines on a number of streets. MSD will reimburse the City for the full cost of the sanitary sewer improvements and rehabilitation.

Mr. Robert Griffin reminded the Council that on August 31, 1993, they would be considering the add alternate to the base bid relative to the Boston Way and Kitchen Place special assessment projects.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-121. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 93

E. MOTION AUTHORIZING THE CITY MANAGER TO SIGN A FIRE PROTECTION AGREEMENT WITH THE VA MEDICAL CENTER

City Manager Bean said that with the decision not to annex the area around the VA Medical Center, the City is faced with a situation of having previously agreed to annex the VA Medical Center effective October 1 of this year and thereby voiding our fire protection contract. The City has not budgeted any revenue in this year's budget for the VA contract based on the City's previous agreement. He said that he has had a number of discussions with the VA Medical Center and indicated the City's financial problems and concerns. Jim Christian understands the City's position and is willing to work on a phase out of the contract so long as they have a guarantee that at a specific date and time they will become a part of the City. The City has negotiated a tentative agreement that would extend the current contract for a 2 year period of time with the 93-94 contract being 50% of the current amount or $80,000 and the 94-95 contract being 25% or $40,000. This phased out contract will be contingent upon the VA Medical Center successfully petitioning the City for annexation of their property. Since there was a previous agreement and since there are no funds in this year's budget, it would appear that this is a fair and equitable settlement of this problem.

Councilwoman Field moved to authorize the City Manager to sign a fire protection agreement with the VA Medical Center. This motion was seconded by Councilman Moore and carried unanimously.

F. RECOMMENDATION OF AWARDING BIDS ON FOUR REFUSE COLLECTION VEHICLES FOR THE PUBLIC WORKS DEPARTMENT, SANITATION DIVISION

ORDINANCE NO. 2046 - BUDGET AMENDMENT TO AWARD REFUSE COLLECTION VEHICLES

City Manager Bean said that two bids were received and it is recommended that the award of this bid be made to Southern Truck services, Charlotte, North Carolina, for 3 each, "Crane Carrier" 1993 year Model IRL-20 cab and chassis and packer body with a "Toter" dumping unit at $95,779 each; and 1 each, "Crane Carrier" 1993 year Model IRL-28 cab and chassis and packer body with a "Toter" dumping unit at $105,129 for a total award of $392,466. He said funds are currently budgeted in the Capital Improvement Plan. The complete bid summary is attached hereto as Exhibit "A".

Vice-Mayor Ellison suggested that in future bid specifications for major purchases that performance bonds be required if feasible.

Upon inquiry of Councilman Peterson, Mr. Jim Ewing, Public Works Director, said that the vehicles being replaced are over 10 years old and the new trucks will be for a 2 man crew.

Councilman Worley moved to award the bid to Southern Truck services, Charlotte, North Carolina, for 3 each, "Crane Carrier" 1993 year Model IRL-20 cab and chassis and packer body with a "Toter" dumping unit at $95,779 each; and 1 each, "Crane Carrier" 1993 year Model IRL-28 cab and chassis and packer body with a "Toter" dumping unit at $105,129 for a total award of $392,466. This motion was seconded by Councilman Moore and carried unanimously.

City Manager Bean said that a budget amendment is needed to set up an appropriate to purchase the 4 refuse collection vehicles. The money for this purchase has been carried forward and set aside in the Capital Improvement Plan Fund Balance, from fiscal years 1991/92 and 1992/93.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved to adopt Ordinance No. 2046. This motion was seconded by Councilman Moore.

On a roll call vote of 6-0, Ordinance No. 2046 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 17

G. ORDINANCE NO. 2047 - BUDGET AMENDMENT TO APPROPRIATE FUNDS TO PURCHASE PROPERTY FROM THE BOARD OF EDUCATION FOR THE NEW OAKLEY PARK

City Manager Bean said that this budget amendment in the amount of $335,734 is to appropriate funds to purchase property from the school Board for the new Oakley Park.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved to adopt Ordinance No. 2047. This motion was seconded by Councilman Worley.

On a roll call vote of 6-0, Ordinance No. 2047 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 19

H. RESOLUTION NO. 93-122 - RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS BEING UNDER CONSIDERATION FOR ANNEXATION BY THE CITY OF ASHEVILLE

City Manager Bean explained that this resolution will identify areas under consideration for annexation. The readoption of the map is necessary for the City to set an effective date of annexation earlier than one year from the passage of an annexation ordinance. This is the fourth map of consideration the City of Asheville has adopted since 1987. Adoption of the map of area considered for annexation does not initiate any annexation proceeding.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-122. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 94

V. CONSENT AGENDA:

A. APPROVAL OF THE WORKSESSION MINUTES OF JULY 27, 1993, AND THE REGULAR MEETING ON AUGUST 3, 1993

B. RESOLUTION NO. 93-123 - RESOLUTION AUTHORIZING THE SALE OF A LOT LOCATED ON SAND HILL ROAD

Summary: The City owns a lot on Sand Hill Road (PIN No. 9628.16-92-1814). Mr. Jerry Eury has made an offer for the purchase of this property in the amount of $7,000, which offer was accompanied by 5% bid deposit. The offer was advertised and no upset bids have been received within the time required. The Asheville City Council has determined that it does not need this property for City purposes and desires to sell it to Mr. Eury. This resolution will authorize the sale of that lot located on Sand Hill Road (PIN No. 9628.16-92-1814) to Mr. Jerry Eury in the amount of $7,000.

RESOLUTION BOOK NO. 21 - PAGE 95

C. RESOLUTION NO. 93-124 - RESOLUTION AUTHORIZING THE SALE OF A LOT LOCATED OFF MT. CARMEL ROAD

Summary: The City owns a lot off of Mt. Carmel Road (PIN No. 9720.17-01-7167). Mr. and Mrs. Winston Martin have made an offer for the purchase of this property in the amount of $10,000, which offer was accompanied by 5% bid deposit. The offer was advertised and no upset bids have been received within the time required. The Asheville City Council has determined that it does not need this property for City purposes and desires to sell it to Mr. and Mrs. Martin. This resolution will authorize the sale of that lot located off Mt. Carmel Road (PIN No. 9720.17-01-7167) to Mr. and Mrs. Winston Martin in the amount of $10,000.

RESOLUTION BOOK NO. 21- PAGE 96

D. RESOLUTION NO. 93-125 - RESOLUTION AUTHORIZING SUBMITTAL OF GRANT TO NORTH CAROLINA HUMANITIES COUNCIL FOR STATION 26 OF THE URBAN TRAIL

Summary: The City, on behalf of the Urban Trail and its Station 26 subcommittee, is applying for a North Carolina Humanities Council Grant. Monies would be used for the research, design and installation of Station 26 in the South Pack Square Area.

RESOLUTION BOOK NO. 21 - PAGE 97

E. RESOLUTION NO. 93-126 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES AND EQUIPMENT AT PUBLIC AUCTION

Summary: This resolution will authorize the Purchasing Director to sell additional surplus motor vehicles and

miscellaneous office furnishings and equipment at public auction. The estimated additional revenue from the auction is $1,500.

RESOLUTION BOOK NO. 21 - PAGE 98

F. RESOLUTION NO. 93-127 - RESOLUTION REAPPOINTING MEMBERS TO THE MINORITY BUSINESS COMMISSION

Summary: The terms of Ron Blythe, as the representative of the Asheville Business Development Center, and Michael Linney, as the representative of the YMI Cultural Center, expired on August 1, 1994. This resolution will reappoint both members for a one year term respectively, both terms to expire August 1, 1994, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 104

G. RESOLUTION NO. 93-128 - RESOLUTION APPOINTING MEMBERS TO THE BELE CHERE COMMISSION

Summary: Resolution No. 93-45 allows the City Council to appoint two members to the Bele Chere Commission. This resolution will appoint Marvin Chambers, 2 Lakewood Drive, Asheville, N.C., and Rocky Fulp, 12 Highland Street, Asheville, N.C., to serve two year terms respectively, both terms to expire August 17, 1995, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 105

H. RESOLUTION NO. 93-129 - RESOLUTION ENDORSING THE APPOINTMENT OF A MEMBER TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: Logan Delany has resigned as a member of the Housing Authority and the Mayor has appointed Cleatus B. Tate, 171 Pearson Drive, Asheville, N.C., to fill the unexpired term of Mr. Delany, term to expire June 11, 1994, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 106

I. RESOLUTION NO. 93-130 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: The terms of Alison Arnold, Peter Loewer, J. Lowell Orbison and Joey Moore expired on August 1, 1993.

This resolution will reappoint Peter Loewer, PO Box 5039, Asheville, N.C., 28803; J. Lowell Orbison, 60 Brookwood Road, Asheville, N.C., 28804; and Joey Moore, 9 Edgedale Drive, Asheville, N.C., to serve additional three year terms respectively, terms expiring August 1, 1996. This resolution will also appoint Rick Crawford, 172 St. Dunstans Road, Asheville, N.C., 28803, to serve a three year term, term expiring August 1, 1996. All appointments are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 107

J. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, TO REZONE 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

K. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, RELATIVE TO AMENDING RULE 17 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE COMMISSION OF THE CITY OF ASHEVILLE

L. MOTION SETTING A PUBLIC HEARING FOR AUGUST 31, 1993, TO PROVIDE FOR THE ZONING OF SECTION II OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Ms. Mary Weber, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on August 4, 1993:

THOMS REHABILITATION HOSPITAL ADDITIONS AND RENOVATIONS

Ms. Weber said that Thoms Rehabilitation Hospital has proposed an 18,500 sq. ft., two-story addition to their facility. The addition will consist of a new

kitchen/cafeteria and 20 new patient beds. The property is zoned Office-Institutional and is surrounded by single-family, commercial, and light industrial uses. The project meets or exceeds the requirements of the Asheville Zoning Ordinance, including parking and landscaping. In addition, all utilities and the Fire Department have approved availability of services to the site. At their August 4, 1993 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

HAMPTON INN

Ms. Weber said that South Asheville Hotel Associates is proposing the construction of a Hampton Inn at 204 Tunnel Road. The 59,600 sq. ft. hotel will consist of 121 rooms and be five stores in height. While the site and all adjacent properties are zoned commercial highway, residential development abuts the property on the north and east. Buckstone Drive will be widened and improved to provide access to the site. In addition, a single-family house and a commercial building fronting on Tunnel Road will be demolished as a result of the project.

The project meets the requirements of the Asheville Zoning Ordinance, including parking and landscaping.

Also, all utilities have approved the availability of services to the site. At their August 4, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the Hampton Inn with one condition. The condition is that the Fire Department must approve the availability of adequate fire protection to the site. She stated that the condition has been met.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

SLEEP-IN MOTEL/BILTMORE

Mr. Nicholson said that the proposed Sleep-Inn Hotel will be located off of Hendersonville Road between the I-40 exit and the Quality Inn near Biltmore Village. The developer is Biltmore Dairy Farms and the engineer is Bill Lapsey. The site was formerly used as a maintenance vehicle service yard for the Biltmore Dairy processing plant. The

site is graded flat with steep wooded sites to the southwest. The site is zoned Commercial-Service and adjacent zones include C-S with the Quality Inn to the north, I-40 to the south, US-25 to the east, and Biltmore Forest to the west.

The proposed structure is for a 3-story hotel with a total of 100 rooms. It will be constructed in 2 phases: the first phase will be 25,000 square feet with 64 rooms, and the second phase will be 11,180 square feet with 34 rooms. The site plan meets the parking requirements of the City's ordinance. Access will be at an existing driveway off of US 25 which is presently used for the Quality Inn. The plan meets the landscaping requirements including street trees, parking lot trees, and a buffer which is already existing on the steep slope.

There has been contact from several people requesting information about the project. Three have voiced concern about the additional traffic which would be generated on Hendersonville Road. The NCDOT were not required to issue a permit for the project because the hotel will utilize an existing driveway where there is already a traffic signal, so they did not think it warranted a review.

The project has received approval for sewer availability and fire protection. The application for water availability is still being processed but Planning staff has been told that it will be issued soon. At their August 4, 1993 meeting, the Planning and Zoning Commission approved the project with two conditions. The first condition was to obtain a letter for water availability and the second was to add an additional fire hydrant to the site. She said that both conditions have been met.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

ASHEVILLE MALL - DEPARTMENT STORE ADDITION

The Asheville Mall is proposing a 38,261 square foot expansion for a new department store. The developer is R.L. Coleman and the architect is Danie Johnson. The site is zoned Commercial-Highway and adjacent zones include C-H to the north and to the east, and Residential-3 and the Kenilworth neighborhood to the south and west. The proposed expansion involves adding a second story to the area above Uptons and Woolworths. The building footprint itself will not be expanded. The height of the addition will be between

37 and 40 feet high, about the same height as the adjoining Sears Department store. The mall has adequate existing parking for the expansion. Access will continue to be from the existing driveways off of Tunnel Road and White Pine Drive.

The vegetative buffering existing on the site meets the requirements of the ordinance. Planning and Code Enforcement staff recently visited the site to inspect the buffer to ensure there are no gaps in it.

There have been concerns expressed by an individual representing the Kenilworth Neighborhood Association. His concerns have been about the lighting, hours of construction, noise, adequacy of the buffer, amount of parking, and the narrow width of the 2-lane access road behind the mall.

We have received letters indicating that the expansion will have adequate sewer and water availability and fire protection. At their August 4, 1993 meeting, the Asheville Planning and Zoning recommended approval of the site plan.

Mr. Phil Noblitt, 297 White Pine Drive and President of the Kenilworth Forest Homeowners Association, asked that a public hearing be set on this group development at which time the Association would ask for conditions to be set on the group development.

Mr. Rick Coleman spoke against a public hearing being set due to the fact that the issues the Homeowners Association would raise do not relate to this group development.

Councilman Moore moved to set a public hearing on this matter on August 31, 1993. This motion died for a lack of a second.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. JOHNNIE CLARKE COMMENTS

Mr. Johnnie Clarke, 134 Liberty Street in Oakley, solicited the Council's support against illegal dumping in the wetlands.

C. ASHEVILLE/BUNCOMBE UNITED PUBLIC WORKERS

Mr. Freddie Mitchell, spokesman for the Asheville/ Buncombe United Public Workers, read a prepared statement urging the City Council to take seriously a request from the Civil Service Board to investigate two recent harassment grievances from the Water Department.

D. MONROE GILMORE COMMENTS

Mr. Monroe Gilmore urged the Council to do a thorough investigation of the two grievances filed by Water Department employees.

Vice-Mayor Ellison said that Council will gather additional information and then address the letter received from the Civil Service Board.

Councilman Peterson said that everyone would be given fair and equal representation.

E. CLAIMS

City Manager Bean said the following claim has been received by the City of Asheville during the week of August 2-6, 1993: Murray Nicodemus (Sanitation).

He said this claim has been referred to the appropriate insurers for investigation.

F. LAWSUITS

City Manager Bean said that the City was served with the following lawsuit on August 12, 1993: North Carolina Department of Transportation (condemnation).

He said this lawsuits has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT

Vice-Mayor Ellison adjourned the meeting at 6:50 p.m.

William F. Valentine
CITY CLERK

H. Lee Merrimon
MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 412-93
FOUR (4) REFUSE COLLECTION VEHICLES FOR
THE PUBLIC WORKS DEPARTMENT, SANITATION DIVISION

BID ITEM	SOUTHERN TRUCK SERVICE CHARLOTTE, N. C.	HEIL SOUTHEAST WINSTON-SALEM, N. C.
1. 1 EACH 20 CUBIC YD. CAPACITY REFUSE COLLECTION VEHICLE WITH SINGLE REAR AXLE CAB & CHASSIS		
MAKE:	Crane Carrier Co.	
MODEL:	IRL-20	
YEAR:	1993	
HYDRAULIC PACKER BODY		
MAKE:	Crane Carrier Co.	
MODEL:	IRL-20	
DUMPING UNIT		
MAKE:	Tote, Inc.	
MODEL:	3061-00-2500	
AMOUNT:	$95,779.00	NO BID
DELIVERY:	90 - 120 Days A.R.O.	

Exhibit "A"

BID SUMMARY
BID REQUEST NO. 412-93
PAGE -2-

BID ITEM	SOUTHERN TRUCK SERVICE CHARLOTTE, N. C.	HEIL SOUTHEAST WINSTON-SALEM, N. C.
1A. ALTERNATE		
3 EACH 20 CUBIC YD. CAPACTIY		
REFUSE COLLECTION VEHICLES		
WITH SINGLE REAR AXLES		
CAB & CHASSIS		
MAKE:	Crane Carrier Co.	
MODEL:	IRL 20	
YEAR:	1993	
HYDRAULIC PACKER BODY		
MAKE:	Crane Carrier Co.	
MODEL:	IRL-20	
DUMPING UNIT		
MAKE:	Toter, Inc.	
MODEL:	3061-00-2500	
UNIT PRICE:	$95,779.00	
AMOUNT:	$287,337.00	NO BID
DELIVERY:	90 to 120 Days A.R.O.	

ALTERNATE BID - BID ITEM NO. 1A - MAY OR MAY NOT BE AWARDED AND IF AWARDED, WILL BE IN LIEU OF BID ITEM NOS. 1 AND 2.

BID SUMMARY
BID REQUEST NO. 412-93
PAGE -3-

BID ITEM	SOUTHERN TRUCK SERVICE CHARLOTTE, N. C.	HEIL SOUTHEAST WINSTON-SALEM, N. C.
2. 2 EACH 20 CUBIC YD. CAPACITY REFUSE COLLECTION VEHICLE WITH DUAL REAR AXLES		
CAB & CHASSIS		
MAKE:	Crane Carrier Co.	WhiteGMC
MODEL:	LET	WXLL64
YEAR:	1993	1994
HYDRAULIC PACKER BODY		
MAKE:	Heil	Heil
MODEL:	Formula 5000-20	Formula 5000
DUMPING UNIT		
MAKE:	Barker	Barker
MODEL:	602	602
UNIT PRICE:	$105,100.00	$104,680.00
AMOUNT:	$210,200.00	$209,360.00
DELIVERY:	135 - 165 Days A.R.O.	120 to 150 Days A.R.O.

BID SUMMARY
BID REQUEST NO. 412-93
PAGE -4-

BID ITEM	SOUTHERN TRUCK SERVICE CHARLOTTE, N. C.	HEIL SOUTHEAST WINSTON-SALEM, N. C.
3. 1 EACH 28 CUBIC YD. CAPACITY REFUSE COLLECTION VHEICLE WITH DUAL REAR AXLE CAB & CHASSIS		
MAKE:	Crane Carrier Co.	
MODEL:	IRL-28	
YEAR:	1993	
HYDRAULIC PACKER BODY		
MAKE:	Crane Carrier Co.	
MODEL:	IRL-28	
DUMPING UNIT		
MAKE:	Toter	
MODEL:	3061-00-2500	
AMOUNT:	$105,129.00	NO BID
DELIVERY:	90 to 120 Days A.R.O.	
TERMS:	Net 30	Net 30
BID DEPOSIT:	5% Bid Bond	5% Bid Bond

The following companies submitted a 'No Bid': Scranton Manufacturing Company, Inc., Scranton, IA; Knoxville Mack Distributors, Knoxville, TN; Legend Valley Products, Newark, CA; Bruder/Sharpe Inc., Madison, NC; Amick Equipment Company, Lexington, SC; and Cavalier Equiment Company, Roanoke, VA.

Tuesday - August 31, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Councilman Peterson gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF THE B*E*S*T QUARTERLY WINNERS FOR THE 1ST AND 2ND QUARTERS IN 1993

City Manager Bean said that on July 8, 1993, the B*E*S*T Committee met to choose the 1st and 2nd Quarterly B*E*S*T winners for 1993. Out of several nominations, Ronnie Davis (Police Department) was chosen as the 1st Quarterly winner and Melinda Ingle (Police Department) was chosen as the 2nd Quarterly winner.

Ronnie Davis was nominated for volunteering his time to help raise funds for the NC Special Olympics for the past two years. Ronnie spent many days sitting on top of the billboard on Patton Avenue in pouring rain, hot sun and cold weather. His dedication to this special cause has certainly not gone unnoticed by the community or his fellow co-workers.

Melinda Ingle was nominated for the care and attention she gave while investigating a child sexual assault case. She found two small children who would not have anything in the way of gifts for Christmas. Melinda began searching for a way to create a Christmas dream for these two children. With her strong will and efforts, she was able to gather toys, clothing, shoes, coats and other assorted goodies and personally deliver them to this family so these children could continue their belief that Santa Claus is real. She showed compassion and demonstrated the true meaning of the Christmas season. We are all thankful for the extra compassion she exhibits for children.

City Manager Bean then presented Ronnie and Melinda with B*E*S*T Awards.

B. PRESENTATION OF BOOK ENTITLED LOCAL GOVERNMENT IN NORTH CAROLINA BY GORDON P. WHITAKER

City Manager Bean stated that over four years ago the North Carolina City and County Management Association realized the need for education of young people relative to local government. As a result of that realization, the book entitled Local Government in North Carolina by Gordon P. Whitaker has finally been published. He passed out copies of the book to Council members and J. Frank Yeager, Superintendent of Buncombe County Schools, and Wayne Trogdon, Superintendent of Asheville City Schools. Both Superintendents expressed their appreciation for this wonderful addition to their curriculum.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE PROPERTY AT 401 OLD COUNTY HOME ROAD FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Michalove opened the public hearing at 4:11 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the Planning and Zoning Commission denied the request after lengthy public comment by adjoining property owners in opposition. The two lots (PIN Nos. 9629-10-26-5131 and 9629-10-26-7219) are just one lot east of the intersection of Old County Home Road and Leicester Highway. Currently used as residential, the two lots support three individual structures. The subject lots are located in the City's extraterritorial jurisdiction and share a property line with the recently built Food Lion shopping center.

Due to this development, a severe steep wall of rock is located along the western property line.

The Planning staff recommendation was denial because of nonconformance with the 2010 Plan (shown as medium-density residential) and narrowness of Old County Home Road. The Planning and Zoning denial vote was unanimous.

On July 30, 1993, the City Clerk's office received a request from Ms. Nettie Briggs, owner of the property, appealing the Planning and Zoning Commission's decision to the City Council.

Mayor Michalove explained the public hearing procedure and asked if there was a spokesman for the petitioner. At that time Mr. Kent Williamson, Good Neighbors Realty, identified himself. He then asked if here was a spokesman for the community and was told that there were several people who wanted to speak. He explained that the Council would give the petitioner an opportunity to speak and then take comments from the opposing side.

Mr. Kent Williamson, agent from Good Neighbors Realty representing the property owner, passed out copies of pictures showing the dense accumulation of commercial businesses around 401 Old County Home Road. He said, among other things, that Mrs. Briggs' property line is next to a large boulder-covered high bank and she experiences loud noises, particularly at night. He said that because of the commercial development next to her, it has forced her to ask for this rezoning and sell her property.

A resident from 2040 Old County Home Road spoke in opposition of the rezoning. She spoke about the need to keep the area zoned residential.

At this time (4:28 p.m.), Vice-Mayor Ellison entered the meeting.

Ms. Marjorie Bransletter, property owner in area, spoke in opposition of any action to rezone the subject property commercially. She read a letter from her daughter, Christina Bransletter, which opposed the rezoning and also she read a statement from her brother, Steve Bransletter, who opposed the rezoning.

Ms. Vivian Kyte, owner of property adjacent to Mrs. Briggs, spoke in opposition of the proposed rezoning.

Mr. David Barbour, neighbor of Mrs. Briggs, spoke in opposition of the proposed rezoning and felt that Old County Home Road was too narrow for commercial traffic.

Mr. Dennis Wynne, neighbor of Mrs. Briggs, spoke in opposition of the rezoning and urged Council to keep Old County Home Road residentially zoned.

A letter was read from Richard B. Wynne urging Council not to rezone commercially into a residential area, therefore opposing the rezoning.

Mr. Rick Wynne urged Council not to rezone the property commercially.

Mr. James Harwood, neighbor of Mrs. Briggs, opposed the rezoning.

Mr. Bron Spivey spoke in opposition of the proposed rezoning.

After asking for any other comments and receiving none, Mayor Michalove closed the public hearing at 4:35 p.m.

Councilwoman Field moved to deny the rezoning of 401 Old County Home Road from R-3 Residential District to CS Commercial Service District. This motion was seconded by Councilman Swicegood and carried unanimously.

B. PUBLIC HEARING RELATIVE TO AMENDING RULE 17 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

RESOLUTION NO. 93-131 - RESOLUTION AMENDING RULE 17 OF THE RULES AND REGULATIONS OF THE CIVIL SERVICE BOARD OF THE CITY OF ASHEVILLE

Mayor Michalove opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Bean said that Rule 17 was initially adopted by City Council on May 7, 1991. The intent of the rule was that it only apply to full-time (02) City employees, not seasonal and part-time employees. However, its current wording "any employee" does not clearly reflect this intent. This amendment to Rule 17 will clarify it is only applicable to full-time (02) employees. He said that the Civil Service Board adopted this rule change on August 4, 1993, and then explained the following amendment:

> A full-time (02) employee who sustains an injury which is compensable under the North Carolina's Workers' Compensation Act and who is no longer capable of performing the duties required in his/her regular job shall be permanently assigned, without competitive examination, to another position, with the approval of the Personnel Director, the City Attorney and the Civil Service Board. No such assignment shall be made, however, until the Civil Service Board has made a determination that the employee is vocationally and physically suited for the position to which he/she is to be assigned. Provided, however, that in the event

that more than one job classification is available for which the employee is vocationally and physically suited, the employee shall be allowed to choose the position in which he/she is to be placed, if feasible. Provided, further, that where a position is available within the employee's existing department for which the employee is vocationally and physically suited, the employee shall be allowed to remain within that department if feasible. (amendment underlined)

Ms. Ronda Castlewitz read a statement relative to the City's treatment of injured officers on worker's compensation. She felt that Rule 17 is the City's way to avoid paying benefits to injured employees.

Mayor Michalove closed the public hearing at 4:44 p.m.

Vice-Mayor Ellison asked that the City Manager investigate the issues Ms. Castlewitz raised and report back to the Council on September 14, 1993.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-131. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 108

C. PUBLIC HEARING TO PROVIDE FOR THE ZONING OF SECTION II OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

ORDINANCE NO. 2048 - ORDINANCE TO PROVIDE FOR THE ZONING OF SECTION II OF BRAESIDE AT BILTMORE PARK LOCATED ON OVERLOOK ROAD

Mayor Michalove opened the public hearing at 4:48 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Executive Assistant in the Planning Department said that the owners of the Braeside II subdivision petitioned the City of Asheville to annex the area located off Overlook Road. Annexation of the area was completed as of July 19, 1993, in accordance with the wishes of the owners.

The City's ordinances require that zoning be assigned to all annexed areas. On August 4, 1993, the Planning and Zoning Commission met and recommended that the R-1 Residential District zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public. This property is also subject to the provisions of the Watershed Protection Overlay Ordinance.

Mayor Michalove closed the public hearing at 4:51 p.m.

Mayor Michalove said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2048. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2048 on its first and only required reading.

ORDINANCE BOOK NO. 14 - PAGE 21

III. UNFINISHED BUSINESS:

A. ORDINANCE AMENDING CHAPTER 30 TO SET FORTH CONDITIONS REQUIRED OF CHURCHES IN RESIDENTIAL DISTRICTS (CONDITIONAL USE PERMIT REQUIREMENTS)

Mayor Michalove stated that the public hearing on this matter was held on June 29, 1993. On August 17, 1993, this matter was heard again at which time more public comment was taken. On the 17th, this matter was tabled in order to give the City Attorney's Office and the Planning Department time to research the language suggested by City Attorney Slawter that an amendment be made to the zoning ordinance that would provide for a variable setback to be determined by the Board of Adjustment as part of the conditional use application process.

Two draft ordinances were presented, both allowing the Board of Adjustment discretion in establishing the amount of the setback at the time that the hearing is conducted regarding the granting of the conditional use permit. Draft #1 contains the language which Planning Director Julia Cogburn mentioned to Council at their August 17, 1993, meeting and is more limited in the guidance given to the Board of Adjustment. Draft #2 provides some additional guidance to the Board of Adjustment in determining whether to reduce the setback.

Councilman Worley read Draft #2 allowing churches to build within "30 feet from any property line. Provided, however, the Board of Adjustment may allow a parking area to be within 15 feet of a property line" if certain conditions are met. He felt that the 30 foot maximum and 15 foot minimum figures are consistent with the setback figures in the Unified Development Ordinance which draft should be coming before the City Council in October, 1993.

Councilman Worley moved to adopt Draft #2. This motion was seconded by Councilwoman Field.

Councilman Peterson moved to table this matter until September 14, 1993, in order to give the Council time to review any suggestions made at this meeting. This motion was seconded by Councilman Swicegood and carried unanimously.

Mayor Michalove stated that comments would be heard which only relate to suggestions for additional guidance to the Board of Adjustment.

Ms. Betsy Murray urged Council not to let the Board of Adjustment make any exceptions.

Mr. Monty Wooten, 81 Euclid Boulevard, urged the Board of Adjustment not to destroy any trees.

Ms. Tracy Monk Durland, 59 Henrietta Street, read a statement asked that the City Council leave the Board of Adjustment out of this ordinance. She spoke in favor of more vegetation and making sure there is good public notice given in matters concerning the Board of Adjustment determinations.

Upon inquiry of Councilwoman Field about notifying neighborhood associations, City Attorney Slawter stated that there is no legal way of knowing if there is a neighborhood association.

Mr. Jim Skalski urged Council to have the setback requirement at 40 feet and if a majority of the affected property owners can agree to a different setback, then some provision could be made.

Mr. Paul Godfrey suggested a mediation process be implemented as the first step in any level of variance being requested.

Ms. Leni Sitnick, 90 Gertrude Place, asked for a copy of the buffering ordinance. Ms. Julia Cogburn said that she would furnish Ms. Sitnick with a copy.

Mayor Michalove stated that all comments would be reviewed and the matter would be back before the City Council on September 14, 1993.

B. ORDINANCE NO. 2045 - SECOND READING OF AN ORDINANCE TO REZONE 720 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove said that this public hearing was opened on August 3, 1993, and continued and closed on August 17, 1993, at which time the ordinance passed on its first reading.

On a roll call vote of 4-2 (with Councilwoman Field and Mayor Michalove voting "no") Ordinance No. 2045 passed on its second and final reading.

ORDINANCE BOOK NO. 14 - PAGE 15

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-132 - RESOLUTION DIRECTING THE KITCHEN PLACE PROJECT BEGINNING AT ITS INTERSECTION WITH ANGLE STREET TO ITS INTERSECTION WITH BROOK STREET BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

B. RESOLUTION NO. 93-133 - RESOLUTION DIRECTING THE BOSTON WAY PROJECT FROM ITS INTERSECTION WITH HENDERSONVILLE ROAD TO ITS INTERSECTION WITH ALL SOULS CRESCENT BE UNDERTAKEN AND SPECIAL ASSESSMENTS MADE AGAINST BENEFITED PROPERTIES

City Manager Bean said that the preliminary resolutions calling for public hearings to levy special assessments for the Kitchen Place Project and the Boston Way Project were adopted on December 8, 1992. The public hearings on these matters were held on January 19, 1993.

He said that the total alternate bid was approximately $253,345. The basics of the alternate bid includes new brick sidewalks, granite curbing, conduits, street pole foundations, concrete tree liners, etc. Fifty percent of the total bid will be paid by the property owners over a 5 year period of time at an interest rate of 8%. He said that money was available for the City's 50% of the project, but due to the City having to front the entire cost of $253,345, there may be a one year delay of 1 or 2 street projects.

Upon inquiry of Councilman Peterson, the property owners will be paying the City back as part of their tax bill.

Councilman Peterson suggested a Council committee be formed. The committee would go out and look at various streets and then determine which streets need repair and how much should to be spent on each street.

Mr. David Harrison spoke in support of the special assessment process.

Mr. Robert Griffin spoke in support of this process and said that he would be the coordinator between this project and the City's Contract No. 10 as it relates to this area.

Mr. H. K. Edgerton, minority contractor in the alternate bid, spoke highly of the Biltmore Village merchants.

Mayor Michalove said that members of Council have been previously furnished with copies of the resolutions and they would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-132. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 110

Councilwoman Field then moved for the adoption of Resolution No. 93-133. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 112

C. RESOLUTION NO. 93-134 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE AND FILE A CERTIFICATE OF FRANCHISING AUTHORITY TO REGULATE BASIC CABLE SERVICE RATES AND INITIATE FINDING A LACK OF EFFECTIVE COMPLETION (FCC FORM 328)

City Manager Bean said that the Cable Television Consumer Protection and Competition Act of 1992 authorized franchising authorities, such as the City of Asheville, to regulate the basic service tier of its local franchisee for cable television service. Franchising authorities may begin to file on September 1, 1993, certifications with the Federal Communications Commission ("FCC") entitled "Certification of franchising Authority to Regulate Basic

Cable Service Rates and Initial Finding of Lack of Effective Competition." The Asheville City Council needs to consider whether or not it wants to authorize the filing of the certification with the FCC in order to regulate basic cable service rates of its local franchisee (TCI Cablevision of Asheville).

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-134. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 114

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 17, 1993

B. RESOLUTION NO. 93-135 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE AN OWNER'S, LANDLORD'S AND MORTGAGEE'S SUBORDINATION WAIVER AGREEMENT FOR THE ASHEVILLE ART MUSEUM

Summary: The City owns the underlying fee and an undivided interest in the improvements to the property identified as the Pack Place Education Arts and Science Center, Inc., property. Asheville Mart Museum is located in Pack Place Education Arts and Science Center Inc. As part of its operations, the Asheville Art Museum has secured a line of credit from First-Citizens Bank & Trust Company. First-Citizens Bank & Trust Company has requested that the City, due to its ownership interest in the above-referenced property, execute an Owner's, Landlord's and Mortgagee's Subordination Waiver Agreement.

RESOLUTION BOOK NO. 21 - PAGE 115

C. RESOLUTION NO. 93-136- RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: Due to the recent death of Chairman Helen Mitchell, a vacancy on the Board has occurred. This resolution will appoint (1) Osborne M. Hart, 148 Blanton Street, Asheville, North Carolina, 28801, as Chairman to fill out Ms. Mitchell's unexpired term, term to expire

November 13, 1994, or until his successor has been duly appointed and qualified; and (2) appoint Jewell Wilson, 32 Lover's Loop, Asheville, North Carolina, 28803, as a member of the Alcoholic Beverage Control Board to fill out the term of Osborne M. Hart, term to expire November 13, 1993, at which time she is hereby reappointed to serve a three year term, term expiring November 13, 1996, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 116

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 93-137 - RESOLUTION OF THE COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, EXTENDING AN INVITATION TO THE CITY OF SAUMUR, FRANCE, TO BECOME A SISTER CITY AND INVITING THE PEOPLE OF SAUMUR, FRANCE, TO PARTICIPATE IN THE PROGRAM

Mayor Michalove explained that this resolution would extend an invitation to the government and the people of the City of Saumur, France, to participate with the City of Asheville as its Sister City for the purpose of creating greater mutual understanding between the peoples of our two great cities and nations.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-137. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 117

B. MOTION AUTHORIZING THE MAYOR TO SIGN A GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE FUNDING OF STATE AIRPORT AID PROJECT 9.9484930 (PHASE III - TERMINAL EXPANSION)

Councilman Swicegood moved to authorize the Mayor to sign a grant agreement with the North Carolina Department of Transportation in the amount of $233,260 for the funding of

State Airport Aid Project 9.9484930 (Phase III - Terminal Expansion). This motion was seconded by Councilman Peterson and carried unanimously.

C. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of August 9-13, 1993: Ethel Corbett (Parks) and Heinz J. Puff (Sanitation).

He said the following claims have been received during the week of August 23-27, 1993: Sandra Wallace (Streets), Harold Talbert Realty (Water), Mountain Valley Water (Parks) and June Moore (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:55 p.m.

William D. Malcolm
CITY CLERK

H. Lee Michalove
MAYOR

Tuesday - September 14, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION RECOGNIZING BENJAMIN WESLEY TROTTER III

Mayor Michalove presented Benjamin Wesley Trotter III with a proclamation which recognized Wes' accomplishments, which included earning the rank of being first in his class of approximately 5,000 students at UNC-Chapel Hill. On behalf of the City Council, Mayor Michalove wished Wes continued success in all his future endeavors.

B. PROCLAMATION OF APPRECIATION TO THE WEST ASHEVILLE LITTLE LEAGUE

On behalf of the City Council, Mayor Michalove extended appreciation to the West Asheville Little League for the fine publicity they have brought our community in their efforts to promote Little League activities in our area. He presented the proclamation to Mr. Tommy Gassaway, District Administrator of the West Asheville Board of Directors.

C. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 19-25, 1993, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Michalove proclaimed the week of September 19-25, 1993, as "Minority Enterprise Development Week". He presented the proclamation to Mr. Jim Drummond, who briefed the Council on activities taking place during the week.

D. PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 17-23, 1993, AS "CONSTITUTION WEEK"

Mayor Michalove proclaimed the week of September 17-23, 1993, as "Constitution Week" in the City of Asheville and presented the proclamation to Ms. Ruth Parson and Mrs. Calvin Reemers.

E. RECOGNITION OF FRIENDSHIP FORCE FROM YAMAGUCHI, JAPAN

Mayor Michalove recognized the Friendship Force from Yamaguchi, Japan, and presented them with gifts. Mr. Doug Michaels introduced the individuals from Japan and a gift was presented to the City of Asheville.

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2049 - ORDINANCE AMENDING ARTICLE 7 OF CHAPTER 30 SETTING FORTH CONDITIONS REQUIRED OF CHURCHES AS CONDITIONAL USES

Mayor Michalove stated that the public hearing on this matter was held on June 29, 1993. On August 17, 1993, this matter was heard again at which time more public comment was taken and tabled for further research. On August 31, 1993, a motion and seconded to adopt Draft #2 allowing churches to build within "30 feet from any property line. Provided, however, the Board of Adjustment may allow a parking area to be within 15 feet of a property line" if certain conditions are met. He said that comments were heard on August 31, 1993, as they related to additional guidance to the Board of Adjustment in determining whether to reduce the setback. He said that also on August 31, a motion was made and seconded to table the matter until September 14, 1993, in order to give the Council time to review any suggestions made at this meeting.

City Attorney Slawter explained the ordinance marked Draft #2A presently before the Council which included suggestions from the August 31 meeting. The concerns were as follows:

1. Insure that adequate notice is given to neighboring property owners. The existing rules of procedure for the Board of Adjustment require that notice of any such hearing be published in

the newspaper at least five days before the hearing and mailed to all other parties and adjoining property owners at least five days before the hearing.

2. Only allow the reduced buffer if the majority of the surrounding property owners agree. While considering the impact of a reduced buffer upon the surrounding property owners would be appropriate in connection with the Board of Adjustment finding "that surrounding properties will not be adversely affected . . .," we do not feel that actually conditioning approval upon the neighbor' concurrence would be appropriate. Such a provision would place final authority in the hands of the neighbors, rather than the Board of Adjustment.

3. A suggestion was made that mediation be required in connection with all such applications. This has not be addressed in the revised draft.

4. Protection of existing trees. This item has been addressed.

Councilman Worley moved to amend his prior motion for the adoption of Draft #2A as outlined by the City Attorney. This motion was seconded by Councilwoman Field and carried unanimously.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

On a roll call vote of 7-0, Ordinance No. 2049 passed on its first and only reading.

ORDINANCE BOOK NO. 14 - PAGE 23

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR DEVONSHIRE SUBDIVISION - PHASE II

Ms. Mary Weber, Urban Planner, said that the Devonshire Subdivision is located off of Hendersonville Road, just south of the Blue Ridge Parkway. The subdivision is a 13-acre tract which is being divided into 89 residential lots, and is being constructed in seven phases. On March 4, 1992, the Planning and Zoning Commission recommended approval of

the preliminary plat. The City Council approved the final plat of Phase 1 of the subdivision on November 17, 1992. The request before Council is for approval of the Phase II final plat.

All utilities and the Fire Department have approved availability of services to the site. The owner has submitted a performance bond to guarantee the completion of the street after approval of the final plat.

Vice-Mayor Ellison moved to approve the final plat for Devonshire Subdivision - Phase II. This motion was seconded by Councilman Moore and carried unanimously.

B. FINAL PLAT APPROVAL FOR BEAVER CREEK SUBDIVISION

Ms. Mary Weber, Urban Planner, said that the proposed Beaver Creek Subdivision is located off of Beaverdam Road near Carter Cove Road. The 18 acre site will be divided into eight lots. The heavily wooded site slopes upward to form a knoll, and Beaverdam Creek flows through it.

On April 27, 1993, the City Council approved a variance to reduce the right-of-way width from 50 feet to 40 feet. All utilities have been approved for the project, and the developer has obtained a letter of credit guaranteeing that the infrastructure will be completed after final plat approval.

The Planning and Zoning Commission recommended approval of the preliminary plat at their April 7, 1993, meeting, with three conditions:

1. Obtain driveway permit from NC DOT.
2. Obtain permit from Army Corps of Engineers to widen bridge.
3. Obtain letter of water availability from the Water Department.

All conditions have been met.

Vice-Mayor Ellison moved to approve the final plat for Beaver Creek Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 93-138 - RESOLUTION FINDING THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END OF THE ROADWAY COMPLETED, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON SEPTEMBER 28, 1993, OF THE PRELIMINARY ASSESSMENT ROLL

City Manager Bean said that on June 16, 1992, the City Council adopted Resolution No. 92-78 directing that the Woodland Road project be undertaken and special assessments be made against benefited properties. Consistent with the special assessment statutory requirements, this resolution will find the project completed, assess the total cost ($13,994.32) and schedule a public hearing on September 28, 1993, regarding the preliminary assessment roll.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-138. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 118

D. DISCUSSION RELATIVE TO PROPOSED SIGN ORDINANCE AS IT RELATES TO POLITICAL SIGNS AND GRANDFATHERING OF PRE-EXISTING NONCONFORMING SIGNS

Mayor Michalove said that the Council will be considering a motion to request the Planning and Zoning Commission make a recommendation regarding amendment to regulations regarding political signs and the grandfathering of pre-existing nonconforming signs.

City Attorney Slawter said that the draft ordinance regarding political signs incorporates the following revisions which the Council requested: elimination of the limit of two signs per lot, extending the allowed time for the signs from 30 to 45 days before the general election, and clarifying that the time limitations do not apply to billboards.

The draft ordinance regarding pre-existing nonconforming signs provides for the "grandfathering" of signs which conformed to the requirements of the October 1, 1977, ordinance at the time of the adoption of the current ordinance on August 28, 1990.

Ms. Julia Cogburn answered questions relative to the number of signs which would be grandfathered by the draft ordinance. She said that there would be 733 on-premise signs and 94 off-premise signs.

Vice-Mayor Ellison moved to support the proposed changes relative to political signs and refer them to the

Planning and Zoning Commission for consideration with recommendation back to the City Council on November 9, 1993. This motion was seconded by Councilman Moore and carried unanimously.

Councilman Swicegood moved to support the proposed changes regarding pre-existing nonconforming signs and refer them to the Planning and Zoning Commission for consideration with recommendation back to the City Council on November 9, 1993. This motion was seconded by Councilman Peterson.

Councilman Moore could not support the pre-existing nonconforming ordinance and felt that it was premature and the City should wait until a determination is made by the courts.

Councilwoman Field echoed Councilman Moore's comments.

Councilman Worley was concerned about on-premise signs that were nonconforming only because they exceeded the maximum allowable number of signs under the current ordinance. He suggested the possibility of excluding them from any grandfathering provision.

Vice-Mayor Ellison supported the draft as presented and felt it was fair for everyone involved.

Councilman Peterson supported the grandfathering of the pre-existing nonconforming signs.

Councilman Swicegood favored the grandfathering approach.

Mayor Michalove didn't favor going back to the grandfathering approach.

Mr. Jeff Dave, Chairman of the Board of Adjustment, stated that there were several matters coming before the Board of Adjustment in the near future and felt that the Board should table those matters until this issue was addressed by the Council.

Mr. Frank Martin, representing the Coalition for Scenic Beauty, felt Council should not rush into any grandfathering. He presented three suggestions for the Council to consider if the grandfathering approach is taken.

Mr. Mike Summey responded to Mr. Martin's comments and passed out a chart showing the decline of retail sales per household from 1980 through 1992.

Mr. Loyd Kirk, Forest Manor Inn, spoke in support of the grandfathering.

Mr. Darrell Merchant, General Manager of Fairway Outdoor Advertising, supporting the grandfathering of pre-existing nonconforming signs.

At this time (5:15 p.m.) Vice-Mayor Ellison left the meeting unexcused. Mayor Michalove said that Vice-Mayor Ellison reviewed the agenda items yet to be voted on and realized that his absence would be counted as an "yea" vote in all matters.

At this time, a voice vote was called on the prior motion made by Councilman Swicegood and seconded by Councilman Peterson to support the proposed changes regarding pre-existing nonconforming signs and refer them to the Planning and Zoning Commission for consideration with recommendation back to the City Council on November 9, 1993. This motion passed on a 4-3 vote, with Councilwoman Field, Councilman Moore and Mayor Michalove voting "no."

Mayor Michalove again stated that the action to be taken will be to refer the proposed changes to the Planning & Zoning Commission for consideration and recommendation to the Council. Public hearings will be required at a later date by both the Planning and Zoning Commission and the City Council before such amendments may be adopted.

E. DISCUSSION RELATIVE TO AN ORDINANCE REGULATING SMOKING AND SETTING A PUBLIC HEARING ON THE MATTER FOR SEPTEMBER 28, 1993

City Attorney Slawter stated that the draft ordinance will prohibit smoking in all City buildings, the Airport Terminal, the Transit Authority building, the Civic Center and Pack Place, subject to the right of the City Manager, Airport Authority, Civic Center Commission, Transit Authority and Pack Place Board of Directors to designate smoking areas within those buildings. We have had specific requests from the Airport Authority, the Transit Authority and Pack Place Board of Directors that they be included in the ordinance. The ordinance prohibits smoking in all City vehicles.

Council discussions appeared to favor allowing restaurants and retail establishments to determine whether they want to have the ordinance applied to them. He said that he has discussed the Black Mountain procedure (whereby businesses send a notice to the City of their intent to be

covered by the ordinance) with the attorney for the Town of Black Mountain. In the case of Black Mountain, personal contact was made with every business establishment in town in order to provide the opportunity to come under their ordinance. It would be next to impossible to try a similar concept in Asheville due to the large number of businesses located within the City. Instead of requiring the private businesses notify the City of their intent to come under the ordinance, the draft ordinance provides that the ordinance will be applicable to all such businesses wherein the owner decides to have the ordinance apply and evidences that by the posting of appropriate signs. This method will continue to allow private business owners to determine for themselves whether they wish to have smoking regulations within their business, and will lend the support of the City for enforcement if the business owners do decide to restrict smoking.

He said that private businesses may continue to do as they wish after October 15 and may have a totally smoke-free establishment if they wish. What is regulated after October 15 is the City's authority to regulate smoking. It is the opinion of the legal staff at the League of Municipalities that prior to October 15, the City has authority to totally prohibit smoking in municipal facilities and to provide for reasonable regulations in private establishments. It is further their opinion that after October 15, the City may only regulate smoking in municipal facilities if 20% of the space is set aside as a smoking area and that there is no authority to regulate private establishments if the ordinance is not adopted before October 15. This would not mean, however, that the private establishments could not prohibit smoking themselves.

Councilman Moore moved to set a public hearing on September 28, 1993, relative to an ordinance regulating smoking. This motion was seconded by Councilman Worley and carried unanimously.

F. RESOLUTION NO. 93-139 - RESOLUTION ESTABLISHING A POLICY REGARDING CITY CONTRACTS WITH DELINQUENT TAX PAYERS

Councilman Worley briefed the Council on this policy. He said that the tax collection rate of the City for ad valorem taxes bears a direct relationship to the financial well-being of the City and a low tax collection rate adversely impacts the City's bond rating, thereby causing the City additional unnecessary expense in the form of higher interest rates to be paid on outstanding bonded

indebtedness. He said the City Council desires to encourage to the fullest extent possible the full payment of all ad valorem taxes and it has determined that it can encourage the payment of ad valorem taxes by refusing to contract with persons and firms whose ad valorem taxes are delinquent.

He said this resolution will establish as a policy of the City of Asheville that the City will not contract with persons or firms who are delinquent in the payment of ad valorem taxes owed to the City of Asheville and that all solicitations for bids advertised by the City of Asheville shall include notice of this policy.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-139. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 120

V. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 31, 1993

B. AWARD OF BID FOR TWO FOUR-WHEEL DRIVE BACKHOES FOR THE PUBLIC WORKS DEPARTMENT, STREET DIVISION

Summary: Five bids were received and recommendation is to award to the low bidder, Farm Equipment Company, Inc., Asheville, North Carolina, in the amount of $77,452 for the purchase of 2 1993 Ford, Model 575-D Backhoes. Funds are budgeted in the Capital Improvement Plan. A complete copy of the bid summary is attached hereto as Exhibit "A".

C. RESOLUTION NO. 93-140 - RESOLUTION AUTHORIZING THE CITY MANAGER OF THE CITY OF ASHEVILLE TO ENTER INTO A CONTRACT WITH HAYNES ELECTRIC UTILITY CORPORATION FOR INSTALLATION OF BALLFIELD LIGHTS AT VALLEY SPRINGS PARK

Summary: In order to meet the recreation needs of the people in the recently annexed South Buncombe area, City Council has established funds for the complete renovation of the ballfields at Valley Springs School. Part of this renovation is the replacement and upgrading of the lights on

two ballfields. The system was designed, bids were accepted, and this resolution will authorize the City Manager to enter into a contract with the low bidder for this work in the amount of $73,836.

RESOLUTION BOOK NO. 21 - PAGE 121

D. MOTION SETTING A PUBLIC HEARING ON OCTOBER 12, 1993, RELATIVE TO REZONING 620 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

E. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 28, 1993, RELATIVE TO REZONING A LOT ON HAZEL MILL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

F. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 28, 1993, TO AMEND THE ZONING ORDINANCE TO PROHIBIT PARKING OF LARGE TRUCKS (TRACTOR-TRAILERS, SEMIS, ETC.) IN RESIDENTIALLY ZONED AREAS

G. RESOLUTION NO. 93-141 - RESOLUTION OF INTENT TO CLOSE A PORTION OF BORDEAU PLACE AND CALLING FOR A PUBLIC HEARING ON OCTOBER 12, 1993

RESOLUTION BOOK NO. 21 - PAGE 122

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on September 1, 1993:

CAROLINA APARTMENTS

Mr. Green said that the Carolina Apartments is an existing 3-story building which is located on 68 N. French

Broad Avenue. The proposal is to restore the building which was damaged in a fire last year. There will be a total of 27 apartments, 9 more than were originally there. The additional units result from rearranging the interior walls to create smaller apartments, so the building size will remain the same.

The building is located in the Central Business District and will be accessed from N. French Broad Avenue and Haywood Street. There are no parking requirements in the Central Business District and the only landscaping requirement is for street trees. The project is also in the Downtown Design Review District and has been reviewed and approved for compliance with the design guidelines.

The architect has received letters of commitment for water and sewer availability. The Fire Department has expressed concern about its ability to provide fire protection to the project because the fire flow required to protect a wood frame residential building exceeds the available flow at the site. The needed fire flow for the project is 3500 gallons per minute but only 2900 gallons per minute are available. The Fire Department recommends the installation of sprinklers to assure an adequate level of fire protection for the building.

There has been no opposition to the project from adjacent property owners. At their September 1993 meeting, the Asheville Planning and Zoning Commission voted to recommend approval of the project with the condition that the developer take steps to assure an adequate level of fire protection for the building.

Fire Chief John Rukavina answered Council's questions relative to fire protection.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

Mr. Green said that Asheville-Buncombe Technical Community College originally submitted plans for the addition and renovation to the Learning Resource Center in 1989. At that time water flow was found to be inadequate to meet the Fire Department's standards for fire protection. The project was not constructed due to lack of funding.

The Asheville-Buncombe Water Authority completed water system improvements in mid-1990. These improvements did not

increase water flow at A-B Tech and the flow continues to be less than that required by the Fire Department standards for fire protection. Flow tests indicate a flow of 620 gallons per minute and the Fire Department's fire protection standards require a flow of 1500 gallons per minute. According to the Fire Department, there may not be enough available water supply for a sprinkler system. Solutions to this problem would required construction of a water storage facility on the A-B Tech. campus or improvements to the water main serving the campus (only the section of the water main not upgraded in 1990 would require improvement).

After reviewing the site plan and related information, the Planning and Zoning Commission voted unanimously to approve the project with the following condition: Approval of all permits and plans, including a Fire Department statement that adequate water for fire protection can be provided to the proposed building.

Fire Chief Rukavina answered Council's questions and concerns as they related to adequate fire protection. He stated that the Fire Department does have correspondence dating back to 1990 to A-B Tech relative to fire protection.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. NO ASHEVILLE CITY COUNCIL MEETING SEPTEMBER 21, 1993

Mayor Michalove announced there will be no meeting of the Asheville City Council on Tuesday, September 21, 1993.

C. COLLAPSE OF STORM SEWER ON GLENDALE AVENUE

City Manager Bean said that in accordance with Resolution No. 92-20, a request was made by the owner of M & R Enterprises on Glendale Avenue for the city to contribute $7,000 (50% of the cost) towards the repair a collapsed storm sewer immediately adjacent to the foundation of his building.

After reviewing the City's options, it was the consensus of Council not to fund the $7,000. The Council felt it would be best to wait until staff's recommendations relative to the worst drainage problem areas and development regulations.

D. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of August 30 - September 3 , 1993: Roxie McKnight (Water) and Truman Rice (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 5:45 p.m.

William O. Halcatt
CITY CLERK

W. Lee Michalove
MAYOR

BID SUMMARY
BID REQUEST NO. 416-94

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, AUGUST 26, 1993 3:00 P.M.

TWO (2) BACKHOES FOR THE PUBLIC WORKS DEPARTMENT, STREET DIVISION

BIDDER	FARM EQUIPMENT CO. ASHEVILLE, N. C.	N. C. EQUIPMENT CO. ASHEVILLE, N. C.	VAN LOTT, INC. ASHEVILLE, N. C.	E. F. CRAVEN CO. CO. ASHEVILLE, N. C.	CAROLINA TRACTOR ASHEVILLE, N. C.
ITEM 1: 2) FOUR WHEEL DRIVE BACKHOES					
MAKE:	Ford	JCB	John Deere	Case	Caterpillar
MODEL:	575-D	214	310D	580 Super K	416B
YEAR:	1993	1993	1993	1993	1993
UNIT PRICE:	$38.726.00	$38.936.00	$39,026.00	$39.671.00	$47,111.00
AMOUNT:	$77.452.00	$77.872.00	$78.052.00	$79.342.00	$94,222.00
DELIVERY:	90 - 120 Days	45 - 60 Days	30 Days A.R.O.	30 - 60 Days	90 Days
TERMS:	Net 30	Net 30	Net 30	Net 30	Net 30

The following companies submitted a 'No Bid': Arden Equipment Company, Inc., Arden, N. C.
Prime Equipment Company, Asheville, N. C.
Ditch Witch of Charlotte, Charlotte, N. C.
A. E. Finley and Associates, Inc., Charlotte, N. C.

Exhibit "A"

Tuesday - September 28, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman William G. Moore

INVOCATION

Councilman Worley gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 26 - OCTOBER 2, 1993, AS "GREEK HERITAGE WEEK"

Mayor Michalove proclaimed the week of September 26-October 2, 1993, as "Greek Heritage Week" in the City of Asheville and presented the proclamation to Councilman Peterson.

B. PROCLAMATION PROCLAIMING OCTOBER 3-9, 1993, AS "FIRE PREVENTION WEEK"

Mayor Michalove proclaimed the week of October 3-9, 1993, as "Fire Prevention Week" in the City of Asheville and presented it to Fire Chief John Rukavina. Chief of Fire Prevention Wayne Hamilton thanked the Council for the recognition of this very important week.

C. PROCLAMATION PROCLAIMING OCTOBER 10, 1993, AS "FIREFIGHTER MEMORIAL SUNDAY"

Mayor Michalove proclaimed of October 10, 1993, as "Firefighter Memorial Sunday" in the City of Asheville and presented it to Fire Chief John Rukavina. Chief Rukavina invited everyone to the 1993 Firefighter Memorial Sunday Ceremony on October 10, 1993, at 2:00 p.m. at the City/County Plaza to honor the memory of firefighters who have given their lives in the service of their communities.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING REGULATING SMOKING

ORDINANCE NO. 2050 - ORDINANCE REGULATING SMOKING

Mayor Michalove opened the public hearing at 4:08 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter stated that this ordinance will prohibit smoking in all City buildings, the Airport Terminal Building, the Asheville Transit Authority building, the Civic Center Commission, Pack Place Education, Arts and Science Center Inc. and the Asheville City Board of Education, subject to the right of the City Manager, Airport Authority, Civic Center Commission, Transit Authority, Pack Place Board of Directors, and the Asheville City Board of Education to designate smoking areas within those buildings. It also will regulate all businesses, including restaurants and other eating establishments, and other public buildings within the City of Asheville. The ordinance will also prohibit smoking in all City vehicles.

He also advised the Council that the County Health Department may enact rules regulating smoking. Those rules would be applicable in the City as well as within the County. As drafted, those rules would be more restrictive than the City's ordinance. He said that the Health Department would be considering the proposed rules later this evening.

Vice-Mayor Ellison questioned the City Attorney about the possibility of using the monies collected for education of the public about smoking. City Attorney Slawter said that because the penalty is a criminal violation, any monies collected have to go to the courts and the school system. He said there might be a possibility of the school system using their portion of the money for educating the public.

Vice-Mayor Ellison moved to set the penalty for violation not to exceed $200 per violation. He said that this was consistent with Buncombe County's ordinance. This motion was seconded by Councilwoman Field and carried unanimously.

Upon inquiry of Councilwoman Field about lesser penalties for one-time offenders, City Attorney Slawter said that those judgments are totally left up to the judge.

Mr. John Hartley spoke in opposition to the no smoking ordinance. He passed out some information and news articles to support his opposition.

Dr. John E. Van Wye, Regional Allergy & Asthma Consultants, P.A., spoke about the adverse health effects of secondhand tobacco smoke exposure and urged the Council to adopt a strong no smoking ordinance. He handed out to Council a letter dated August 23, 1993, and a chapter excerpted from Pediatric Respiratory Disease: Diagnosis and Treatment by Bettina C. Hilman, M.D.

Mr. Bob Tinkler, Co-Coordinator of WNC GASP, a local chapter of the Group Against Smokers' Pollution, read a prepared statement to adopt strong no smoking regulations. He read, among other things, that if smoking areas are to be designated, a separate and adequate heating, ventilating and air-conditioning system be installed for a smoking area. In addition to passing out his prepared statement, he passed out a brochure relative to the dangers of tobacco smoke.

Mr. Pat Osterman urged the Council to adopt an ordinance for clean, smoke-free air. He felt that it was very important to educate the public, especially children, about the dangers of smoking.

A resident of Asheville urged the Council to have as many nonsmoking places as possible. Many people, including herself, are allergic to smoke.

Ms. Teresa Kitchen spoke about the dangers of secondhand smoke and urged Council to pass a strong no smoking ordinance.

Ms. Cathy M. Warn read a prepared statement and urged the Council to impose the strictest non-smoking ordinance possible to protect all its citizens.

Ms. Peggy Carey, resident at Aston Park Towers, asked the Council to extend the ordinance to include all buildings owned by the Housing Authority. She asked Council to urge the Housing Authority to impose no smoking restrictions in all common areas.

Vice-Mayor Ellison moved to amend the ordinance to add the Housing Authority facilities to the City's regulations concerning smoking. The amendment will prohibit smoking in all Housing Authority facilities, except where smoking may be authorized by the Authority. This motion was seconded by Councilman Worley and carried unanimously.

Dr. James Tenny, Director of the Health Department, stated that he was attending the public hearing to listen to comments.

Ms. Leni Sitnick asked Council to seriously consider a no smoking ordinance.

Ms. Hazel Fobes spoke in favor of the no smoking ordinance but asked Council to tighten it up.

Upon inquiry of Councilwoman Field, City Attorney Slawter summarized the Health Department's rules regulating smoking. He stated that their rules are more restrictive than the City's ordinance and the strictest ordinance would apply throughout Buncombe County.

Councilwoman Field was strong opposed to smoking and supported a separate and adequate heating, ventilating and air-conditioning system be installed for a smoking area, especially in the Civic Center. She was concerned, however, with the expense involved.

Mayor Michalove closed the public hearing at 5:05 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved to adopt Ordinance No. 2050, as amended. This motion was seconded by Councilman Swicegood.

Vice-Mayor Ellison hoped that the City, the County and the Health Department would all work together to educate the public on this very important matter.

On a roll call vote of 6-0, Ordinance No. 2020 passed on its first and only reading.

ORDINANCE BOOK NO. 14 - PAGE 27

B. PUBLIC HEARING RELATIVE TO REZONING A LOT ON HAZEL MILL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT.

Mayor Michalove opened the public hearing at 5:06 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the subject lot was denied for a rezoning change in both 1974 and 1985 by the past Planning and Zoning Commission due to poor access and narrow conditions on Hazel Mill Road. Staff recommendation in 1993 was denial based on nonconformance

with the 2010 Land Use Plan (shown as low density residential) and access conditions.

The Asheville Planning and Zoning Commission, at its meeting held on September 1, 1993, reviewed and recommended approval to rezone one lot on Hazel Mill Road (PIN No. 9638-06-48-0406) from R-3 Residential District to CH Commercial Highway District on a 3-2 vote.

Upon inquiry of Councilwoman Field, Ms. Pennell mentioned that improvements to Hazel Mill Road were postponed because of budget considerations with the long range sidewalk and street plan.

There was some discussion relative to the 2010 Plan's designation of the area as low density residential.

Councilman Swicegood asked where the access to the property would be and Ms. Pennell responded that the only access to the property was off of Hazel Mill Road.

Mr. Jerry Crow passed out pictures of the lot in question and the surrounding area. He stated that the neighborhood is in a state of change and properties in the area are deteriorating. He felt that the highest and best use of the lot certainly was not residential. He spoke in support of the rezoning in order so that the lot could possibly be developed as a parking lot.

Mr. Conrad Jungberg, 365 Hazel Mill Road, presented Council with a petition containing 53 signatures which reads: "We, the undersigned as residents of Hazel Mill Road express our strong opposition to the suggested change of property designation along Hazel Mill Road from R-3 to CH. Designation CH means that not only the properties in question change but that Hazel Mill Road will forever be Commercial Highway. However, a change to a non-interfering (only automobile traffic) disignation (sic) as O.I. (Office/Institutional) would be acceptable from traffic point of view." Mr. Jungberg used a map to illustrate the concerns the neighborhood had while speaking in opposition to the commercial highway designation.

A letter from Mr. Daniel P. McIntyre (264 Hazel Mill Road) was presented to the Council which gave several reasons why Mr. McIntyre supported the rezoning to commercial highway.

A representative from the Buncombe Baptist Association (227 Hazel Mill Road) urged Council not to rezone the property from residential to commercial highway. He mentioned traffic and access concerns.

Ms. Pennell mentioned professional offices as conditional uses were also allowed on this subject lot.

Pursuant to request made by Council, Ms. Pennell read an excerpt of the Planning and Zoning Commission's minutes as it related to this issue.

Vice-Mayor Ellison felt that perhaps the Council should take a tour of the lot concerned before a decision is made.

Mayor Michalove closed the public hearing at 5:47 p.m.

Councilwoman Field moved to table this matter until October 12, 1993, without further advertisement, in order to give the Council an opportunity to tour the lot in question. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

C. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO PROHIBIT PARKING OF LARGE MOTOR VEHICLES, SUCH AS, BUT NOT LIMITED TO, TRUCK TRAILERS, TRUCKS, SEMITRAILERS AND BUSES, ON PROPERTY LOCATED IN A RESIDENTIAL DISTRICT

Mayor Michalove opened the public hearing at 5:50 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that complaints from residential neighborhoods have generated the need for an amendment to the off-street parking and loading section of the zoning ordinance.

Specifically, large motor vehicles having a gross weight in excess of 10,000 pounds or length in excess of 270 inches or width in excess of 96 inches shall not be permitted to be parked or left on any property, subject to exceptions (including RV vehicles).

The Asheville Planning and Zoning Commission, at its September 1, 1993, meeting, reviewed and voted unanimously to amend said section to prohibit the parking of large motor vehicles in residential zoning districts.

Vice-Mayor Ellison felt that the large trucks probably are parked at their homes for security reasons and having to park a loaded truck away from the home would not allow truckers to protect their cargo.

Ms. Pennell stated that the zoning office would do the enforcement of this ordinance, unlike the police department which enforces the no parking of these large trucks on City streets in residentially zoned areas.

Mr. Gordon Lucks, 174 Montford Avenue and owner of a large truck, spoke in opposition of this ordinance stating that he feels it is an infringement of his rights as a property owner to be told that he cannot park his large truck on his own property. He felt that recreational vehicles are also large and they are allowed to be parked on private property in residentially zoned areas.

Mr. Bill Baber, 170 Montford Avenue, gave a brief history of the events leading up to this proposed ordinance, including two lawsuits. He stated that he is the neighbor to Mr. Lucks. Mr. Lucks parks his large truck in the back of his home and when the large truck is started up and left running for any period of time, Mr. Baber's house fills with diesel fumes. There have been several times that he has had to leave his house because of the fumes, not to mention the noise.

Mr. Baber presented Council with a copy of a petition containing 54 signatures which supported the ordinance amendment.

Mayor Michalove closed the public hearing at 6:09 p.m.

Since the problem presented today is the only one of this type received by the City, Mayor Michalove did not feel inclined to adopt a city-wide ordinance.

Councilwoman Field moved to adopt the ordinance. This motion was seconded by Councilman Worley.

Councilman Swicegood stated concerns of recreation vehicles being allowed and not large trucks.

Councilman Peterson suggested renting a space for the parking of the large vehicles. Mr. Lucks explained that he parks at his house for security reasons and the convenience of his own back yard.

When Councilman Swicegood inquired about the outcome of the court actions, it was stated that both actions were dismissed without prejudice.

Vice-Mayor Ellison felt uncomfortable in adopting an ordinance telling people what they can or cannot do on their own property.

Vice-Mayor Ellison introduced a substitution motion to table the ordinance for further discussion. This motion was seconded by Councilman Swicegood and carried unanimously.

Council asked the City Manager give them a report on (1) why large recreational vehicles are allowed in residentially zoned areas and (2) how do other cities in North Carolina deal with this issue.

Ms. Leni Sitnick suggested that other applicable laws which might prove useful would be the noise ordinance and anti-pollution laws.

D. PUBLIC HEARING RELATIVE TO THE PRELIMINARY ASSESSMENT ROLL ON THE WOODLAND ROAD SPECIAL ASSESSMENT PROJECT

RESOLUTION NO. 93-142 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE WOODLAND ROAD PROJECT BEGINNING AT THE INTERSECTION OF SCHOOL ROAD IN WEST ASHEVILLE WITH WOODLAND ROAD AND ENDING AT THE DEAD END OF THE ROADWAY

Mayor Michalove opened the public hearing at 6:23 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jim Ewing, Public Works Director, said that this resolution would confirm the preliminary assessments made in the Woodland Road Project. The total cost of the project, including labor, materials, equipment and the cost of publication of notice is $13,994.32. The amount assessed is $5,377.79.

Mayor Michalove closed the public hearing at 6:25 p.m.

Mayor Michalove said members of Council had been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-142 on September 28, 1993, at 6:25 p.m. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 AT PAGE 124

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-143 - RESOLUTION SUPPORTING THE PROPOSED STATE BOND ISSUES FOR WATER AND SEWER, UNIVERSITIES, COMMUNITY COLLEGES AND STATE PARKS

Mayor Michalove explained that this resolution expresses the Asheville City Council's strong support the proposed state bond issues for water and sewer, universities, community colleges and state parks and urges the citizens of Asheville to vote in favor of it.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-143. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 130

B. RESOLUTION NO. 93-144 - RESOLUTION IN SUPPORT OF THE PROPOSED CONSTITUTIONAL AMENDMENT TO AUTHORIZE ECONOMIC DEVELOPMENT BOND FINANCING BY LOCAL GOVERNMENTS

City Attorney Slawter said that one of the questions on the ballot in the November 2 election is the question of whether or not to approve an amendment to the North Carolina Constitution that would enable cities and counties to finance the construction of public improvements and facilities that would make private industrial and other economic development projects possible. This resolution expresses the Asheville City Council's strong support for this amendment and urges the citizens of Asheville to vote in favor of it.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-144. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 131

C. RESOLUTION NO. 93-145 - RESOLUTION ESTABLISHING POLICY REGARDING SETTLEMENT OF CLAIMS FILED AGAINST THE CITY OF ASHEVILLE

City Attorney Slawter said that by Resolution No. 93-120 adopted on August 17, 1993, the City Council authorized the execution of a claims administration contract with the Asheville Claims Corporation providing for administration of our new self insurance program effective September 1, 1993. That program requires authorization for settlement of claims filed against the City. This resolution will establish a policy for settlement of those claims.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-145. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 132

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 14, 1993

B. MOTION SETTING A PUBLIC HEARING ON OCTOBER 26, 1993, AT 6:00 P.M. RELATIVE TO THE DISPARITY STUDY

C. MOTION AUTHORIZING THE HOUSING AUTHORITY TO SELL ONE DISPOSAL PARCEL IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT AREA AND ONE DISPOSAL PARCEL IN THE HILL STREET/CHERRY STREET REDEVELOPMENT PROJECT

Summary: Disposal Parcel 73 in the East End/Valley Street Community Improvement Area has an established price of $1,500 and the designated reuse is residential. The amount of the bid from Leonia Hawthorne is $1,500 and the proposed reuse is for assemblage with adjacent residential property owned by the bidder. Parcel 73 is substandard for use as an independent building lot.

Disposal Parcel 18 in the Hill Street/Cherry Street Redevelopment Project has an established price of $1,500 and the designated reuse is residential. The amount of the bid from B&B Associates is $1,500 and the proposed reuse is residential. There is a dilapidated structure on Parcel 18 which will be partially demolished and rebuilt and rehabilitated to code standards in accordance with historic guidelines.

D. RESOLUTION NO. 93-146 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: Due to the resignation of Mitty Owens, there exists a vacancy on the Historic Resources Commission. This resolution will appoint William O. Moore, 8 College Street, Asheville, N.C., to serve the unexpired term of Mitty Owens, term to expire July 1, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 135

E. RESOLUTION NO. 93-147 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION

Summary: The terms of Albert Anderson, Harriette Winner and Michael Freeman, as members on the Planning and Zoning Commission, expired August 14, 1993. This resolution will 1) reappoint Harriette Winner, 1201 Merrimon Avenue, Asheville, N.C., to serve a three year term, term expiring August 14, 1996; and 2) appoint Jane Mathews, Manzanita Cottage, 12 The Circle, Asheville, N.C., and James Torpey, 7 Gardenwood Drive, Asheville, N.C., to serve three year terms respectively, terms expiring August 14, 1996. All appointments are subject to their successors being duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 136

F. RESOLUTION NO. 93-148 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-16

Summary: The Federal Aviation Administration ("FAA") has offered a grant agreement to the Asheville Regional Airport Authority with a maximum obligation of the United States in the amount of $1,168,251. The project will consist of (1) construct extended safety area, runway 34 (Phase II); (2) expand ARFF building; (3) install signage; and (4) acquire land (tracts 8 & 9) 35.693 acres fee.

RESOLUTION BOOK NO. 21 - PAGE 137

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 93-149 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-58.1 TO ANNEX A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD AND KNOWN AS SECTION 4 OF BRAESIDE AT BILTMORE PARK

City Manager Bean said that a petition requesting annexation of Section 4 of Braeside at Biltmore Park was received on September 27, 1993, by the City of Asheville. This resolution will direct the City Clerk to investigate the sufficiency of the petition and to certify as soon as possible to the City Council the result of his investigation.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-149. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 138

B. TONY PONDER - CAMPAIGNING FOR PUBLIC OFFICE

Mr. Tony Ponder read a prepared statement stating his concerns about the direction campaigning for public office at all levels is taking.

C. LENI SITNICK - COUNCIL MEETING TIME AND DATES

Ms. Leni Sitnick urged Council to work with the Buncombe County Commissioners so that City Council meetings and County Commission meetings do not fall on the same days at the same times.

D. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of September 6-10, 1993: Michael Breedlove (Water), Mrs. Eugene Farmer (Water) and Gregory B. Jackson (Police).

He said the following were received during the week of September 20-24, 1993: Ben E. Shade (Police), General Services Corporation (Sanitation) and Gay Israel (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:50 p.m.

William S. Wolcott, Jr. — CITY CLERK

H. M. Michalove — MAYOR

Tuesday - October 12, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Moore gave the invocation.

I. PROCLAMATIONS:

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CLOSE A PORTION OF BORDEAU PLACE

RESOLUTION NO. 93-150 - RESOLUTION CLOSING A PORTION OF BORDEAU PLACE

Mayor Michalove opened the public hearing at 4:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tom Leslie, representing Merrimon Avenue Investments Inc., explained that the reason they are requesting this portion be closed is they have a problem with traffic going through from Marcellus Street to Merrimon Avenue.

City Manager Bean said that a petition to close a portion of Bordeau Place has been received from Merrimon Avenue Investments Inc. The portion of Bordeau Place petitioned to be closed is a dead end section which serves only the property owned by Merrimon Avenue Investments Inc. There would be a slight reduction in Powell Bill street mileage from a revenue standpoint which would be more than offset by the reduction in maintenance cost from the expenditure standpoint.

Upon inquiry of Councilman Swicegood about a possible conflict of interest, City Attorney Slawter stated that there was none.

Mayor Michalove closed the public hearing at 4:14 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved to adopt Resolution No. 93-150. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 139

B. PUBLIC HEARING TO PARTIALLY REZONE 620 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE NO. 2051 - ORDINANCE TO PARTIALLY REZONE 620 REED STREET FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the Asheville Planning and Zoning Commission, on September 1, 1993, reviewed and recommended the partial rezoning of 620 Reed Street (PIN No. 9647-16-74-9794) from R-3 Residential District to CH Commercial Highway District. The recommendation leaves one foot remaining R-3 Residential District along Reed Street.

The subject lot is located in recently adopted Hendersonville Road corridor and amended 2010 Plan which shows commercial land use back to Reed Street except for one foot of medium density residential zoning along Reed Street.

Staff recommended denial of the petition to rezone the entire lot commercial highway. The Planning and Zoning Commission recommended rezoning all but one foot of the lot with that one foot remaining R-3.

Mr. David Matney, attorney representing M. Realty Limited Partnership, submitted lot pictures to the Council. He explained that due to the topography of the lot, the petitioner is asking that the Council rezone the total lot CH Commercial Highway (not leaving the one foot to remain R-3 Residential District along Reed Street. He explained that the Department of Transportation took spaces from the front of the lot and they are trying to rezone the lot in the back for employee parking.

Vice-Mayor Ellison expressed concern that the City worked long and hard on the Hendersonville Road Corridor Plan and he didn't feel comfortable in deviating from the Plan.

Councilman Worley stated that the Council had to consider not only the size of Reed Street and that it is in a very much residential area, but all uses available in the CH Commercial Highway District, even though the petitioner plans to use it for parking.

Mayor Michalove closed the public hearing at 4:24 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Ellison moved to adopt Ordinance No. 2051 to rezone 620 Reed Street from R-3 Residential District to CH Commercial Highway District, except for one foot of R-3 zoning along Reed Street. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2051 passed on its first and only reading.

ORDINANCE BOOK NO. 14 - PAGE 32

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2052 - ORDINANCE TO REZONE A LOT ON HAZEL MILL ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove said that the public hearing on this matter was held on September 28, 1993, and a motion was made to table the matter until this date in order to give the Council an opportunity to tour the area.

Vice-Mayor Ellison wanted to be fair to developers and residents but felt that the City would be setting a precedence (if they rezoned this lot) for commercial development in the future into this residential area. He wanted to know what type improvements the City planned to make to Hazel Mill Road for ingress and egress.

Councilman Moore agreed with Vice-Mayor Ellison's comments and felt that within the next five years, the entire neighborhood would probably be commercial.

Mayor Michalove felt that the Planning and Zoning Commission and staff should look at this area again because the area is changing.

Councilwoman Field stated that the City needed to look at the large amount of money that will be required to fix Hazel Mill Road for commercial traffic. She supported housing in the area and felt the Council should focus on residential.

Vice-Mayor Ellison questioned whose responsibility it would be to widen the road from a safety standpoint.

Mr. Jerry Crow, attorney representing the petitioner, urged the Council to rezone the lot to commercial and mentioned who supported the rezoning and who did not. He said that the rental property owners recognize that they are not getting a return out of their property in the present residential zone. He emphasized that the area is changing from residential to commercial.

Mr. Conrad Jungberg, 365 Hazel Mill Road, used a map to illustrate the concerns the neighborhood had while speaking in opposition to the commercial highway designation.

Upon inquiry of Councilman Swicegood about a possible conflict of interest, City Attorney Slawter stated that there was none.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved to adopt Ordinance No. 2052. This motion was seconded by Councilman Peterson.

On a roll call vote of 5-2, with Councilwoman Field and Councilman Moore voting "no", Ordinance No. 2052 passed on its first and only reading.

Mayor Michalove asked the City Manager to come back to the Council with a traffic report on Hazel Mill Road and recommendations for improvements. He then asked the Planning and Zoning Commission to look at this Hazel Mill Road area, in terms of the changing nature that the Council sees in this becoming a commercial area, and for them to look at it in those terms and re-think and fine tune the 2010 Plan accordingly. He also asked that with any of the developments that come in hereafter that we require the

property owners to set aside space for widening the road so that as development comes in we will not have buildings setting on the road and we will have the right-of-way already set aside.

ORDINANCE BOOK NO. 14 - PAGE 35

IV. NEW BUSINESS:

A. ESTABLISHMENT OF PRIORITY LIST FOR TRANSPORTATION IMPROVEMENT PLAN

Mr. Ron Fuller, Transportation Planner, said that at the City Council meeting on September 14, 1993, City staff presented the annual Priority Needs List information for City Council consideration. A sub-committee was appointed at that time to meet with staff and make a recommendation to City Council on September 28. The sub-committee met on September 23 and discussed the transportation needs. The list of projects were prioritized and some new projects were added. He then briefly explained the List.

Ms. Betty Lawrence, 142 Hillside Street, explained the necessity of Council to add to the List sidewalks on Merrimon Avenue on the west side of the street, specifically in the block south of Weaver Boulevard. She also urged Council not to place the redesign the intersection of Broadway/ Lexington/Merrimon/I-240 at the top of the List and stated her reasons.

Ms. Nancy Hyatt, 37 McIntosh Road, told Council that the project to replace the bridge across Haw Creek at McIntosh Road should not be on the List. She said the bridge only serves only one family (hers) and has been told that it is safe for at least another two years.

Mr. Charles Penny, Assistant City Manager, explained the reasoning for keeping the bridge across Haw Creek at McIntosh Road on the List. He stated, however, that they would investigate the project further.

Ms. Noblett agreed with Ms. Hyatt about the bridge but asked if the City could put some asphalt in the middle of it.

Ms. Pat Skalski, representing the Coalition of Asheville Neighborhoods, stated several concerns and asked that the Council humanize the transportation decisions in the future.

Mr. Brady Blackburn, Chairman of the Downtown Commission, felt that the Broadway intersection needed to be looked at from a safety standpoint.

Mr. Bernard Arghiere, 853 New Haw Creek Road, urged Council to move the widening of New Haw Creek Road up further on the list and stated his reasons for such a request, i.e. especially safety.

Mr. Rusty Stills, 230-1/2 Courtland Place, urged Council to start at this local level in designating monies for non-traditional highway uses.

Councilman Peterson agreed with Ms. Lawrence for the need of the sidewalks on Merrimon Avenue.

City Manager Bean said that a sidewalk priority list, including sidewalks in school areas, is being drawn up with estimates on the individual projects.

Councilwoman Field thanked the public for their input but cautioned them about getting their hopes up for specific projects because last year no projects were funded.

Vice-Mayor Ellison moved to amend the List to replace the bridge across Haw Creek at McIntosh Road at the end of that particular section. This motion was seconded by Councilman Moore and carried unanimously. He asked the City Manager to look into the possibility of dedicating the bridge to Ms. Hyatt, since it only serves her family.

Vice-Mayor Ellison moved to amend the List by placing the widening of New Haw Creek Road up to #2 on the List (now #4). This motion was seconded by Councilman Peterson.

There was some discussion relative to whether the widening of Beaverdam Road (#3) was more important than the widening of New Haw Creek Road (#4) and the consensus was that both were equally important.

Ms. Patty Tallerday, Senior Planner, suggested that Council move the #1 project (extend Sweeten Creek widening to Fairview Road) to #4 and move the other projects up. Her suggestion was based upon the expense of the #1 project. She said that if the #1 project was funded, it would be so expensive that there would not be enough money left over for any of the other lower priority projects.

Vice-Mayor Ellison withdrew his prior motion about moving the widening of New Haw Creek Road up to #2 on the list. Councilman Peterson then withdrew his second.

Councilman Swicegood stated his concerns about moving the #1 project down to #4.

Vice-Mayor Ellison moved to adopt the Priority Needs List for the Transportation Improvement Program as shown below. This motion was seconded by Councilman Moore and carried on a 5-1 vote, with Councilman Swicegood voting "no".

Request for Accelerated Projects

National Highway System (Interstate projects)

1. Asheville Connector

Surface Transportation Program (Other projects)

1. Widening of Sweeten Creek from US 25 to SR 3229
2. Improvements to the signals and intersection at US 70/74 (Asheville Mall area)

Requests for New Projects

National Highway System (Interstate projects)

1. Redesign the intersection of Broadway/Lexington/ Merrimon/I-240

Surface Transportation Program (Other projects)

1. Construct new bridge over Sweeten Creek at Decatur Street (behind the old Lowe's property)
2. Widen and straighten Beaverdam Road from Elk Mountain Scenic Highway to city limits
3. Widen New Haw Creek Road between Tunnel Road and city limits to a three-lane facility
4. Extend Sweeten Creek widening to Fairview Road
5. Widen Mills Gap Road from US 25 to SR 3121 to four lanes
6. Widen Overlook Road from US 25 to Long Shoals Road to a two-lane facility with wide outside lanes, curb and gutter, and sidewalks
7. Expand the scope of the Long Shoals Road widening to include wide outside lanes

Small Urban Projects

1. Construct sidewalks on Fairview Road from River Ridge Mall to Sweeten Creek Road

2. Realign the intersection of New Haw Creek Road at Beverly Road
3. Refurbish the streetscape on Broadway Avenue from Hiawassee/Woodfin to Pack Square
4. Refurbish the streetscape on Biltmore Avenue from the Hot Dog King to Southside Avenue

Transportation Safety Improvements (NHS)

1. Redesign the intersection, including additional landscaping, of Broadway/Lexington/Merrimon/I-240

Transportation Safety Improvements (STP)

1. Construct turn lanes at targeted intersections on Merrimon Avenue
2. Widen Biltmore Avenue from Caledonia to St. Josephs
3. Synchronize signalization of West Patton Avenue
4. Synchronize signalization of Biltmore Avenue from Aston Street to the Blue Ridge Parkway
5. Make intersection improvements to Pinners Cove Road at Mills Gap Road

Federal and Municipal Bridge Projects

1. Replace bridge across Haw Creek at Graham Road
2. Replace bridge across Smith Mill Creek at Druid Drive
3. Replace bridge across Sweeten Creek at Garfield Street
4. Replace bridge across Sweeten Creek at Roberts Road
5. Replace bridge across Haw Creek at McIntosh Road

State Road Bridges

1. Replace bridge across Southern Railway line on Cedar Creek

Transportation Enhancement Projects

1. Purchase and install Opticom System on targeted intersections
2. Construct sidewalks on Hendersonville Road from West Chapel Road to Rock Hill Road
3. Expand the scope of the Long Shoals Road widening to include wide outside lanes

B. RESOLUTION NO. 93-151 - RESOLUTION FIXING DATE OF PUBLIC HEARING ON OCTOBER 26, 1993, ON QUESTION OF ANNEXATION OF A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD AND KNOWN AS SECTION 4 OF BRAESIDE AT BILTMORE PARK

City Manager Bean said that a petition has been received requesting annexation of a residential subdivision known as Section 4 of Braeside at Biltmore Park. The City Clerk has certified the sufficiency of the petition. This is the 4th section of the Braeside at Biltmore Park Subdivision petitioned for annexation. Sections 1, 2 and 3 have been annexed.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-151. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 141

C. RESOLUTION NO. 93-152 - RESOLUTION TO PROVIDE FOR THE REGULATION OF BASIC SERVICE TIER RATES AND RELATED EQUIPMENT, INSTALLATION AND SERVICE CHARGES OF ANY CABLE TELEVISION SYSTEM OPERATING IN THE CITY OF ASHEVILLE

City Attorney Slawter explained that the Cable Television Consumer Protection and Competition Act of (1992 Cable Act) authorized franchising authorities, such as the City of Asheville, to regulate the basic service tier and related equipment, installation and service charges of its local franchisee for cable television service. Pursuant to Resolution No. 93-134, the City Manager filed with the Federal Communications Commission a certification form entitled "Certification of Franchising Authority to Regulate Basic Cable Service Rates and Initial Finding of Lack of Effective Competition." The City of Asheville was certified, based upon the 1992 Cable Act and the FCC regulations promulgated thereunder, as of October 6, 1993.

The 1992 Cable Act and the FCC regulations require the City of Asheville to adopt a rule stating that it will follow the FCC rate regulations in its regulation of the basic service tier and related equipment and installation of service charges and that it will ensure a reasonable opportunity for consideration of views of interested parties.

A franchising authority may also enforce the new FCC Customer Service Standards as contained in the federal regulations. The 1992 Cable Act and the FCC regulations

require that the City of Asheville notify the local cable television company that it has been certified, that it has adopted the required by the FCC rules and that it intends to enforce the new FCC Customer Service Standards.

Within 30 days of the receipt of the letter from the City Manager setting forth the required notice to TCI Cablevision of Asheville ("TCI"), TCI must file with the City of Asheville its basic service tier rate schedule. Upon receipt of that schedule, the City Council will need to provide an opportunity for consideration of views expressed by interested parties (subscribers and TCI) regarding the rate schedule. After receipt of those comments, the City Council will then determine whether or not the rate schedule submitted meets the FCC standards.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-152. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 144

D. RESOLUTION NO. 93-153 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PERRY M. ALEXANDER CONSTRUCTION COMPANY FOR THE GRADING AND SITE IMPROVEMENT WORK FOR BALLFIELDS ON WEST CHAPEL ROAD

City Manager Bean said that bids were solicited and received for the grading and site preparation for the construction of Little League ballfields at the West Chapel Road Park. He said the low bid was submitted by Perry M. Alexander Construction Company in the amount of $306,202 (copy of the bid summary is attached hereto as Exhibit "A"). He asked, however, that he be authorized to negotiate with the low bidder in an effort to reduce the amount.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-153 with the City Manager being authorized to negotiate with Perry M. Alexander Construction Company in an effort to reduce the amount. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 146

E. ORDINANCE NO. 2053 - BUDGET ORDINANCE AMENDMENT RELATIVE TO THE WEST CHAPEL ROAD PARK

City Manager Bean said that this budget amendment, in the amount of $306,202, is to appropriate the funds for the grading and site improvement work for ballfields at the West Chapel Road Park.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Field moved for the adoption of Ordinance No. 2053. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2053 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 38

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 28, 1993

B. RESOLUTION NO. 93-154 - RESOLUTION CALLING FOR A PUBLIC HEARING ON NOVEMBER 9, 1993, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 22 OLIVE STREET

Summary: On April 7, 1992, and August 3, 1992, the Inspections Division inspected 22 Olive Street and found it was unfit for human habitation. Inspections revealed that the roof system is in advance disrepair, floors in bad shape, broken windows throughout, electrical panel needs replaced; plumbing system in disrepair, and water is off. Furnace is missing, exterior chimney is falling away from house, handrails missing, front porch floor has holes, lot is overgrown and very unsanitary.

RESOLUTION BOOK NO. 21 - PAGE 147

Councilman Worley moved for the adoption of the consent agenda. This motion was seconded by Councilman Moore and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Tony Nicholson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on July 7, 1993, and October 6, 1993:

T. C. ROBERSON (ADDITIONS AND RENOVATIONS)

Mr. Nicholson said that T. C. Roberson High School is proposing the construction of additional educational facilities at the school. The proposal is for a 71,000 sq. ft. addition consisting of an auditorium, library, classrooms, and administrative offices. The site and all surrounding properties are zoned R-4 with all adjacent properties used for residential purposes. Access to the proposed addition and parking areas will be provided by a new one-way entrance from Miami Circle and a new one-way exit to Long Shoals Road. Although the Water Authority and Metropolitan Sewerage District have not yet approved availability of services, the Fire Department has conditionally approved availability of adequate fire protection. The proposed plans do meet the minimum requirements of the zoning ordinance, including parking, landscaping, and watershed protection.

At their October 6, 1993, meeting, the Planning and Zoning Commission voted to recommend approval of the project with the following conditions:

1. Availability of services approved by the Metropolitan Sewerage District and the Water Authority.

2. Location and number of fire hydrants must be approved by the Asheville Fire Department.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

TRINITY BAPTIST CHURCH - NEW AUDITORIUM AND PARKING LOTS

Mr. Nicholson said that Trinity Baptist Church is proposing the construction of a new auditorium/classrooms building adjacent to the existing church at 216 Shelburne Road. The 53,500 square feet building will consist of a 1200 seat auditorium on the ground floor and classrooms on the basement floor. The site and all adjacent properties are zoned R-2 and R-3 and surrounding properties consist of single-family homes. The plans also include 183 new parking spaces and new driveways onto Shelburne Road and Sand Hill Road.

The proposed plans meet or exceed the requirements of the Asheville Zoning Ordinance, including parking, landscaping and the conditional use requirements as amended on September 14, 1993. While the Fire Department has approved availability of services to the site, the Metropolitan Sewerage District and the Water Department have not yet approved availability of services to the site.

At their July 7, 1993, meeting, the Planning and Zoning Commission approved the site plan with three conditions:

1. Availability of services must be approved by the Asheville-Buncombe Water Authority and the Metropolitan Sewerage District;

2. A conditional use permit must be granted by the Board of Adjustment; and

3. The Board of Adjustment must specifically address the issue of parking lot lighting and its effect on the surrounding neighborhood.

A number of neighboring residents attended the meeting and voiced concerns dealing with parking lot lighting and increased traffic congestion.

At their September 20, 1993, meeting, the Board of Adjustment granted the church a conditional use permit to make the proposed improvements.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 93-155 - RESOLUTION RESCINDING RESOLUTION NO. 93-82 AND AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH SERVICE ONE, INC., FOR REPAIRS TO THE ROOF OF THE WATER MAINTENANCE BUILDING

City Manager Bean said that on June 15, 1993, the City Council adopted Resolution No. 93-82 authorizing the City Manager to execute a contract with Brownlee Construction Inc. as the lowest responsible bidder for the water maintenance building roof repair project. Subsequent to the adoption of that resolution, the City has determined that some changes need to be made in this project and as a result of those changes, new bids were solicited for the project. The Parks and Recreation Department has reviewed those bids and has recommended that the bid for the work be awarded to Service One, Inc., as the lowest responsible bidder for the revised project. This resolution will rescind Resolution No. 93-82 in its entirety and award the bid to Service One, Inc., as the lowest responsible bidder for the water maintenance building roof repair project, in the amount of $23,967.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-155. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 149

C. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 26, 1993, TO REZONE 271 LEICESTER HIGHWAY FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

Vice-Mayor Ellison moved to set a public hearing for October 26, 1993, to rezone 271 Leicester Highway from R-3 Residential District to R-4 Residential District. This motion was seconded by Councilwoman Field and carried unanimously.

D. MOTION SETTING A PUBLIC HEARING FOR OCTOBER 26, 1993, RELATIVE TO A VARIANCE REQUEST FOR MIDLANDS OF LAKEVIEW PARK SUBDIVISION

Vice-Mayor Ellison moved to set a public hearing for October 26, 1993, relative to a variance request for Midlands of Lakeview Park Subdivision. This motion was seconded by Councilman Worley and carried unanimously.

E. HOUSING INVENTORY

Upon inquiry of Councilman Swicegood, City Manager Bean said that the Council would be received a report on October

26, 1993, relative to an inventory of the most dilapidated houses in Asheville, with estimates for demolition costs.

F. ORDINANCE REGULATING SMOKING

Mr. Bob Tinkler asked the Council to amend Section 1 of Ordinance No. 2050 to either (1) delete any reference to exceptions to the ban in municipal buildings, or (2) allow exceptions to be made only if such designated smoking areas would have a separate and adequate HVAC system according to standards established by the American Society of Heating, Refrigeration and Air Conditioning Engineers.

It was the consensus of Council not to amend the ordinance because the Buncombe County Board of Health rules, recently adopted regulating smoking, are effective not only in the County but in the City as well, and would take precedence over the City's ordinance.

G. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of September 27 - October 1, 1993: John Miller (Water), Christopher Collins (Streets) and Lisa Bailey (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:00 p.m.

William S. Hackett, Jr. / W. Michalove

CITY CLERK MAYOR

Exhibit "A"

PROSPECTIVE BIDDERS

WEST CHAPEL ROAD PARK PROJECT
PROJECT PK-93-043

Bid Opening Date and Time: Monday, October 11, 1993 at 3:00 P. M.

CONTRACTOR	BID	BID BOND	AFFIDAVIT
Asheville Paving Company P. O. Box 7068 Asheville, North Carolina 28802			
Carolina Contracting 839 Soco Road Maggie Valley, North Carolina 28751			
Dillingham Construction Co. 340 Dillingham Circle Asheville, North Carolina 28805	LATE		
Etowah Grading Company P. O. Box 597 Etowah, North Carolina 28739	349,966	✓	✓
Garland Brothers 26 Old Charlotte Highway Asheville, North Carolina 28803			
Huntley Construction Company 121 Charlotte Highway Asheville, North Carolina 28803			
J. Cole Construction Company P. O. Box 1192 Weaverville, North Carolina 28787			
Paul Mount Construction P. O. Box 378 Fletcher, North Carolina 28732			
Paving Enterprises P. O. Box 647 Arden, North Carolina 28704	431,281	✓	✓
Perry Alexander Construction Company P. O. Box 9204 Asheville, North Carolina 28815	306,202	✓	✓
Precision Curbing 796 Riverside Drive Asheville, North Carolina 28801			
Taylor & Murphy Construction Company P. O. Box 6215 Asheville, North Carolina 28816	312,599.10	✓	✓
Terry Brothers Construction Co., Inc. Rt. 4, Box 1885 Leicester, North Carolina 28748	348,440	✓	✓
Walco, Inc. 50 Depot Street Robbinsville, North Carolina 28771	371,054	✓	✓

Tuesday - October 26, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Ellison gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 28, 1993, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Michalove proclaimed October 28, 1993, as "Asheville Area Chamber of Commerce Day" and presented it to Steve Holt, Executive Vice-President, Chuck Fuller and Judy Swann.

B. RESOLUTION NO. 93-156 - RESOLUTION PROCLAIMING OCTOBER 27, 1993, AS "UNFUNDED MANDATES DAY"

Mayor Michalove proclaimed October 27, 1993, as "Unfunded Mandates Day" and read the resolution. City Manager Bean said that this resolution, on behalf of the City Council, resolves to redouble our efforts to inform and work with members of our Congressional delegation to educate them about the impact of federal mandates and actions necessary to reduce their burden on our citizens.

Councilwoman Field moved to adopt Resolution No. 93-156. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 150

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 271 LEICESTER HIGHWAY FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

ORDINANCE NO. 2054 - ORDINANCE REZONING A LOT LOCATED AT 271 LEICESTER HIGHWAY

Mayor Michalove opened the public hearing at 4:12 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, explained that this is a single graded lot (PIN No. 9629-18-41-3229) with a relocated one-story vacant structure fronting New Leicester Highway and bordered by Harrisland Drive. This is currently zoned R-3 but located in the City's extraterritorial jurisdiction boundaries. The widening of Leicester Highway is currently in progress.

The 2010 Plan shows this as a low density residential land use. There is extensive neighborhood opposition to a rezoning. On October 6, 1993, the Planning and Zoning Commission amended the original request which was from R-3 Residential District to OI Office Institutional District to R-3 Residential District to R-4 Residential District by a vote of 5-1.

Ms. Pennell read a letter she received from Cheryl and Murray Wagner voicing strong objection to the rezoning. She also stated that she has received letters in support of the rezoning.

Ms. Elizabeth Graham, member of the Planning and Zoning Commission, briefed the Council on why the Planning and Zoning Commission changed the rezoning from OI to R-4. She spoke about the topography of the lot and the traffic counts on Leicester Highway. She explained that the first original request was from R-3 Residential District to CH Commercial Highway, then R-3 to OI and finally from R-3 to R-4. She said that after the petitioner was more informed about the R-4 uses, he said that he would be agreeable to the R-4 zoning.

Ms. Pennell read the differences between an OI zoning versus an R-4 zoning.

Upon inquiry of Vice-Mayor Ellison about some guidelines relative to growth on Leicester Highway, Ms. Graham felt that the upcoming unified development ordinance would address this issue.

Mr. Melvin Whitmire, husband of petitioner Agnes Whitmire, spoke in support of the rezoning from R-3 to R-4.

Ms. Myra Ramsey, owner of property which adjoins the back of the subject lot, stated her concerns about the rezoning.

Mayor Michalove closed the public hearing at 4:36 p.m.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance at it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2054 which rezones 271 Leicester Highway from R-3 to R-4. This motion was seconded by Councilman Peterson.

On a roll call vote of 6-1, with Councilman Moore voting "no", Ordinance No. 2054 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 40

B. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR MIDLANDS OF LAKEVIEW PARK SUBDIVISION

Mayor Michalove opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that Stratford Properties, Inc., has submitted a preliminary plat for the Midlands of Lakeview Park, a 19-lot subdivision located at the intersection of Stratford Road and Merrimon Avenue. The 16.6 acre parcel is zoned R-1 Residential as is the surrounding property. Access to the property will be provided by extending Pineacre Boulevard, currently a dead-end street, into the development and creating two cul-de-sacs. The proposed lots exceed the standards established by the Asheville Zoning Ordinance and other applicable regulations.

The developers are requesting a variance to permit the proposed street to have a right-of-way width of 40 feet instead of 50 feet as required by the Subdivision Regulations. The requested 40 foot right-of-way width will match the 40 foot right-of-way width on the existing section of Pineacre Boulevard. Public Works has reviewed the request for a reduced right-of-way width and has no objections.

The Planning and Zoning Commission unanimously approved the preliminary plat with the recommendation that the requested variance be granted.

The Asheville Planning and Zoning Commission on October 6, 1993, reviewed and recommended approval of the preliminary plat with two conditions: 1) Final design of the planters at the entrance and in the cul-de-sac must be approved by the Fire Department and the Public Works Department; and 2) The variance request to permit a 40 ft. street right-of-way must be approved by City Council.

Councilman Moore questioned why the developer could not build the street with the required 50 foot right-of-way width. Mr. John Davis, developer, stated that he could, but the existing Pineacre Boulevard has a 40 foot right-of-way width and he wanted to match the existing street. He felt that the 50 feet right-of-way width would place much more restrictions on the lots and the building sites.

Councilwoman Field suggested a bike path or a pedestrian access to Stratford Road, which John Davis, developer, responded that a bike path might be a possibility.

Mr. Davis responded to questions from Councilman Peterson relative to stormwater drainage.

Mayor Michalove closed the public hearing at 4:52 p.m.

Vice-Mayor Ellison moved to grant a variance of 10 feet, from the required 50 foot right-of-way width for subdivision streets, for Pineacre Boulevard in Midlands of Lakeview Park Subdivision. This motion was seconded by Councilman Worley and carried on a 6-1 vote, with Councilman Moore voting "no".

C. PUBLIC HEARING ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF OVERLOOK ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31 (SECTION FOUR OF BRAESIDE AT BILTMORE PARK)

ORDINANCE NO. 2055 - AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE, NORTH CAROLINA, BY ANNEXING A CONTIGUOUS AREA LOCATED ON OVERLOOK ROAD KNOWN AS SECTION FOUR OF BRAESIDE AT BILTMORE PARK

Mayor Michalove opened the public hearing at 4:53 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that on September 27, 1993, the City received a petition from Biltmore Dairy Farms, Inc., the owners of Section Four of Braeside at Biltmore Park Subdivision (a portion of PIN No. 9645.03.34.7424) requesting annexation into the City of Asheville. This property has been subdivided into 18 lots by plat recorded with the Buncombe County Register of Deeds on September 21, 1993.

On October 12, 1993, the City Clerk certified that the petition was valid in that it was signed by the owners of real property being requested for annexation and that the property was contiguous to the Asheville city limits as required by N. C. Gen. Stat. sec. 160A-31 (a).

The developer is installing approximately 1,400 linear feet of 6-inch water line along Red Fox Circle and 500 linear feet of 8-inch water line on Schenck Drive. These lines are being constructed to Asheville-Buncombe Water Authority standards and will be maintained by the Water Authority.

The developer is installing approximately 1,320 liner feet of 8-inch sewer line along Red Fox Circle, 1,500 linear feet of 8-inch sewer line on the western boundary of Section Four, a sewer lift station and 650 linear feet of `.5" sewer force main. These lines have been designed and installed in accordance with MSD standards. Presently, these sewer lines drain to as sewage lift station and are pumped into an MSD maintained system. The pump station, however, does not comply with MSD's requirements. Therefore, the entire sewage system is private. Plans are being made to extend gravity sanitary sewers to this section. When this happens, the pump station can be abandoned and the sewer lines considered for ownership by MSD.

Fire protection will be provided by the City of Asheville Fire Department beginning on the effective date of annexation.

Police protection will be provided by the City of Asheville Police Department beginning on the effective date of annexation.

Streets are being constructed to NC DOT standards and are expected to be accepted by the State for maintenance prior to the effective date of annexation. The City will assume maintenance of the State maintained streets upon the effective date of annexation.

Solid waste collection services will be provided by the City to individual residences according to the same policies in effect in the City at the time of annexation.

The petitioner is requesting adoption of the ordinance on October 26, 1993, with an effective date of April 26, 1994.

Mayor Michalove closed the public hearing at 4:55 p.m.

Mayor Michalove said that members of Council have been furnished with a copy of the ordinance and it would not be read.

Councilman Worley moved for the adoption of Ordinance No. 2055. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2055 passed on its first and final reading.

ORDINANCE BOOK NO. 14 AT PAGE 42

D. PUBLIC HEARING RELATIVE TO THE MINORITY BUSINESS DISPARITY STUDY

This public hearing was held at the end of the meeting.

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

Vice-Mayor Ellison moved to continue this matter until December 21, 1993, due to a pending lawsuit. This motion was seconded by Councilwoman Field and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO CAMBRIDGE INTERESTS INC. FOR A PEDESTRIAN BRIDGE CONNECTING PROPERTY OWNED BY CAMBRIDGE INTERESTS INC. TO THE RANKIN AVENUE PARKING DECK

City Manager Bean said that Cambridge Interests Inc. is the owner of a tract of land formerly occupied by Penney's Department Store which is described in that deed recorded in Deed Book 1473 at Page 164 in the Office of the Register of Deeds for Buncombe County, North Carolina. A 20 foot alley

adjoins the property to the east thereof. The City of Asheville owns a parking garage deck which adjoins the alley to the east. Cambridge Interests Inc. desires to erect a pedestrian bridge connecting the improvements located on their property with the parking deck to provide access to and from the property in the parking deck. The City of Asheville is willing to allow such construction and access to the parking deck, subject to the terms and conditions in the agreement between the parties.

This agreement contains the same language as the agreement for the 21 Haywood Street project and its pedestrian bridge, except for changes which mostly relate to it being a different project. A significant change, however, is that the 21 Haywood Street agreement required a security gate and this agreement only allows for a security gate. The sum and substance of the terms and conditions remain as were negotiated previously with the property owner.

Councilwoman Field inquired about a possible conflict of interest because she owns 1/11th of the adjacent property.

Councilman Moore moved to excuse Councilwoman Field from voting in this matter due to a conflict of interest. This motion was seconded by Councilman Worley.

City Attorney Slawter's opinion was that there was no conflict because there was no monetary gain for her.

The motion to excuse Councilwoman Field from voting was defeated on a vote of 2-4, with Vice-Mayor Ellison, Councilmen Peterson, Swicegood and Worley voting "no".

Mayor Michalove said that members of Council have been furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-157, including an amendment in the agreement that would require a security gate. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 AT PAGE 152

B. RESOLUTION NO. 93-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS BETWEEN MEMORIAL MISSION HOSPITAL AND ST. JOSEPH'S HOSPITAL FOR PURPOSES OF ESTABLISHING A MANAGED CARE NETWORK FOR EMPLOYEE HEALTH BENEFITS

Mayor Michalove asked City Attorney Slawter about a possible conflict of interest because of his being an employee of St. Joseph's Hospital. It was City Attorney Slawter's opinion that there might be a conflict of interest and advised the Mayor accordingly.

Councilman Moore moved to excuse Mayor Michalove from voting on this matter due to a conflict of interest. This motion was seconded by Councilman Worley and carried unanimously.

City Manager Bean was proud to announce an innovative, revolutionary plan to provide a fully integrated health care program to City of Asheville employees. This unique public/private partnership represents the beginning of a relationship that will serve as a model of health care reform, now and into the future.

The "Shared Vision" partnership with Memorial Mission and St. Joseph's hospitals is the first of its kind in Western North Carolina. It will use local health care resources to save money while maintaining freedom of choice for employees and maintaining high quality of care.

Memorial Mission Hospital approached the City about establishing a comprehensive managed care network. Using this framework, the City invited both Mission and St. Joseph's hospitals to respond to a formal "request for proposal" A City of Asheville employee committee was developed to evaluate the proposals and to make recommendations for counter proposals. The product that emerged was a fully integrated managed care program with expected savings to the City of $300,000 to $500,000 over the next two years. The program allows City employees to choose not only which physician they prefer, but which hospital they want to use.

Vice-Mayor Ellison said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-158. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 AT PAGE 153

C. RESOLUTION NO. 93-159 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING THE AMENDED AND RESTATED FACILITIES AND EQUIPMENT LEASE AGREEMENT AND RELATED MATTERS

City Manager Bean said that on November 14, 1989, City Council authorized the execution of a Facilities and Equipment Lease Agreement for the purpose of renovating City Hall Building and upgrading the City computers.

Wachovia Bank, the holder of this agreement, has agreed to lower the interest rate to 4.95 percent effective November 1, 1993. This change will result in a savings in total debt service over the remaining life of the issue (nominal savings) of $342,155. The net present value (NPV) savings is $262,442. The City will incur $33,500 in costs to implement this transaction.

City Manager Bean gave a comprehensive refundings report to Council which showed that the City would have a total debt service savings of $1,955,381.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Peterson moved for the adoption of Resolution No. 93-159. This motion was seconded by Councilman Worley and carried unanimously.

Councilman Peterson commended the City Manager for keeping tabs on interest rates in order to save money.

RESOLUTION BOOK NO. 21 AT PAGE 155

D. ORDINANCE NO. 2056 - BUDGET ORDINANCE TO ESTABLISH AN APPROPRIATION FOR THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM

City Manager Bean said that this budget amendment is to establish an appropriation of $345,800 for the Selective Traffic Enforcement Program (S.T.E.P.) The City Council authorized the application for the S.T.E.P. grant which will provide grant funding for five police officers with the associated vehicle and operating costs in the amount of $229,300 by Resolution No. 93-75 on June 8, 1993. Notice has been received of acceptance of the application and this action sets up the appropriation for expenditure of the grant funds. Local match of $46,500 is provided from General Fund Contingency making the total appropriation of $345,800.

Vice-Mayor Ellison commented that this is a commitment for longer than three years because the City will be hiring five additional police officers and after the program ends, the City wouldn't want to fire the five officers hired for this program.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2056. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2056 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 46

E. ORDINANCE NO. 2057 - BUDGET ORDINANCE TO SET UP APPROPRIATIONS FOR THE CONSTRUCTION OF THE FRENCH BROAD RIVER PARK

City Manager Bean said that this budget amendment is to set up the entire appropriation of $403,510 to complete the development of the French Broad River Park. Revenues to support the $403,510 cost include a grant of $75,000 from the Water Conservation Fund, $100,000 from RiverLink, and $227,010 from the City's Capital Improvement Program. The City has budgeted $190,000 for this project and the remaining $37,101 will come from future proposed projects in the Park's Capital Improvement Program.

Ms. Karen Cragnolin, Executive Director of RiverLink Inc., went into detail of this phase of the French Broad River Park development. She used designs and site plans to show that this phase of the Park would consist of the construction of restroom facilities, trail, picnic shelter, parking lot, playground, and fishing access areas to be located at the confluence of the Swannanoa and French Broad Rivers.

She answered questions relative to the possible use of the play area for a soccer field and questions regarding security of the Park.

Councilman Worley commended Ms. Cragnolin for all her hard work and preparation in the development of this Park.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Peterson moved for the adoption of Ordinance No. 2057. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2057 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 49

F. RESOLUTION NO. 93-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH A & B CONSTRUCTION FOR DEVELOPMENT OF THE FRENCH BROAD RIVER PARK

City Manager Bean said that base bids and alternates were solicited and received for the construction of the French Broad River Park as follows: A & B Construction - $350,935; Hickory Construction - $365,580; and H & M Construction - $514,000. This resolution will authorize the City Manager to enter into an agreement with A & B Construction, the lowest responsible bidder, for the development of a park area on the west bank of the French Broad River.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-160. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 159

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 12, 1993

B. RESOLUTION NO. 93-161 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS BETWEEN THE CITY OF ASHEVILLE VARIOUS ENTITIES FOR THE LEASE OF SPACE AT THE CITY'S TOWER SITES

Summary: Ansel's Refrigeration, Arch Southeast Communications, Dial Page, Fredrickson Motor Express, North Carolina Arboretum, Unicom Corporation (Beep-One), WHNS-TV 21 and WYFF previously entered into a lease agreement with the City of Asheville for the purpose of leasing transmittal space at the City's various tower sites. These lease agreements will soon terminate. The City has been negotiating with these entities over the terms of a new lease agreement and they each wish to renew their lease. This resolution will authorize the City Manager to execute said lease agreements.

RESOLUTION BOOK NO. 21 - PAGE 160

C. **RESOLUTION NO. 93-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT EXTENDING THE LAW ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF PUBLIC SAFETY AT THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE WITH THE BOARD OF TRUSTEES OF THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE**

Summary: The Board of Trustees of the University of North Carolina at Asheville have requested that the City of Asheville allow it to exercise law enforcement authority to all property and buildings owned or leased by the University located within the City's jurisdiction. City staff has reviewed the University's request and recommends granting the response.

RESOLUTION BOOK NO. 21 - PAGE 161

D. **RESOLUTION NO. 93-163 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RAILROAD CROSSING SIGNALS**

Summary: The North Carolina Department of Transportation has recommended the installation of railroad crossing signals at Twentieth Street at Norfolk Southern Railway Crossing No. 720 396T. The Federal Highway Administration will pay 90% of the eligible project costs. The City will be responsible for the non-federal share of the estimated project costs and one-half of the annual maintenance cost.

RESOLUTION BOOK NO. 21 - PAGE 165

E. **RESOLUTION NO. 93-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION AND TO EXECUTE A GRANT AGREEMENT FOR GRANT FUNDS FROM THE NORTH CAROLINA ARTS COUNCIL**

Summary: This resolution will authorize the City Manager to sign an application for $2,000 in grant funds from the NC Arts Council (Grassroots) Arts Program for a youth photography program in the Shiloh community.

RESOLUTION BOOK NO. 21 - PAGE 166

F. **MOTION SETTING A PUBLIC HEARING FOR NOVEMBER 9, 1993, RELATIVE TO AMENDING SECTION 30-9-10B OF APPENDIX A OF THE CODE OF ORDINANCES REGARDING NONCONFORMING SIGNS**

G. MOTION SETTING A PUBLIC HEARING FOR NOVEMBER 9, 1993, RELATIVE TO AMENDING SECTION 30-9-3D.6 OF THE CODE OF ORDINANCES REGARDING POLITICAL SIGNS

H. MOTION SETTING A PUBLIC HEARING FOR NOVEMBER 9, 1993, RELATIVE TO REZONING PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT AND FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT.

Councilman Moore moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION SETTING PUBLIC HEARING ON NOVEMBER 16, 1993, FOR APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION FOR FUNDS TO PROCURE SHELTERS AND BENCHES FOR THE TRANSIT SYSTEM

Councilman Worley moved to set a public hearing on November 16, 1993, for application to the Federal Transit Administration for funds to procure shelters and benches for the transit system. This motion was seconded by Councilwoman Field and carried unanimously.

B. COMMENTS BY ALAN O'DONNELL RELATIVE TO POLICE OFFICERS INJURED IN THE LINE OF DUTY

Mr. Alan O'Donnell read a prepared statement to the Council relative to police officers injured in the line of duty and solicited Council's support and implementation of changes in the worker's compensation program.

City Manager Bean said that the City is currently in litigation over this and is not able to respond in open session.

C. RALPH BISHOP

Mr. Ralph Bishop spoke about problems he has encountered in receiving records at the Fire Department.

D. POLICE CHIEF PETITION

City Manager Bean stated that Councilman Peterson presented him with a petition endorsing a candidate for the position of Police Chief.

E. CHARTER CHANGE

Vice-Mayor Ellison moved to initiate the process for making any amendments that might be necessary so as to make the City Charter to be consistent with state law regarding runoff elections. This motion was seconded by Councilman Moore and carried unanimously.

At this time (5:50 p.m.), Mayor Michalove asked to be excused due to a meeting relative to the upcoming bond issue. Vice-Mayor Ellison moved to excuse Mayor Michalove. This motion was seconded by Councilman Moore and carried unanimously.

F. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of October 11-15, 1993: David Georgia (Police), Catherine Austin (Sanitation), Westminister Presbyterian Church (Water), Namon Radford (Water), Mrs. Grady Wilson (Water) and Janice Rogers (Streets).

He said the following claims have been received by the City during the week of October 18-22, 1993: Raymond Rigsby (Civic Center), Gerald Dean (Water), Sharon Martin (Parking Garage), Annette Mills (Streets), Virginia Maura (Streets) and Joseph Schandler (Water.)

He said that these claims would be referred to the appropriate insurers for investigation.

PUBLIC HEARING

PUBLIC HEARING RELATIVE TO THE MINORITY BUSINESS DISPARITY STUDY

Vice-Mayor Ellison opened the public hearing at 6:00 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Marvin Vierra, Community Development Director, summarized the history surrounding this study.

An extensive report was given by Research and Evaluation Associates, Inc., which study concluded that (1) disparity exists between both ethnic minority- and white

women-owned firms with white men-owned firms in City contracting and procurement; (2) disparity has been due to racial and gender discrimination; and (3) discrimination was passive in character and represented traditional practices. They then explained the recommendations for improvement, i.e., (1) revise minority participation goals; (2) enhance "narrow tailoring" of Plan; (3) expand race neutral initiatives; (4) strengthen the roles and responsibilities of the City departments; (5) expand the roles of the Minority Business Coordinator; (6) provide staff training; and (7) clarify that good faith efforts are required by minority as well as majority prime contractors.

At this time (6:20 p.m.), Councilman Swicegood left the meeting.

Upon inquiry of Councilwoman Field, Dr. Edward Hester said that the adoption of the Minority Business Plan definitely made a difference.

Mr. Vierra responded to questions from Council which related to the City's contract with the State for purchases.

Vice-Mayor Ellison pointed out that many of the recommendations made for improvement can start without cost, i.e., expanding the role of the Minority Business Coordinator and strengthen the roles and responsibilities of the City's departments.

Ms. Katheryn Devereux, Devereux Grading and Excavating, questioned how and when the City was going to start implementing these recommendations.

Mr. Joe Webster, member on the Minority Business Commission, hoped the Council would implement the recommendations soon so that changes in practices can be made. He also suggested a quarterly monitoring system be implemented.

Ms. Leni Sitnick spoke in support of the recommendations and hoped that strict penalties would be imposed.

Mr. Rubin Falk spoke about economic problems.

Mr. H. K. Edgerton spoke in support of the recommendations and thanked Council for hiring a Minority Business Coordinator.

Mr. Robert Edgerton felt that the study was a start to changing the practices and hoped that Council would implement the recommendations soon.

Mr. Nelson Lordman, Lordman Construction Company, said he resented being hired to satisfy anyone's quota, but would rather be hired for the quality of his work.

Mr. Clarence Benton hoped that Council would start implementing the recommendations for change and said that it was time to start being fair.

Vice-Mayor Ellison closed the public hearing at 7:10 p.m.

Vice-Mayor Ellison said that the Council would be having a worksession to consider all the recommendations and comments made at this public hearing.

On behalf of the City Council, Vice-Mayor Ellison thanked Research and Evaluation Associates, Inc., for their work on this study.

OTHER BUSINESS

BROADWAY HIGHWAY PROJECT

Ms. Betty Lawrence, accompanied by some 100 people, read a prepared statement to the Council urging them to use their influence to keep Broadway a two-lane road instead of a four-lane boulevard. She presented the Council with 72 letters which supported keeping Broadway a two-lane road.

She presented a resolution of endorsement of a reevaluation of the design of the Broadway Highway Project for the Council to consider. Vice-Mayor Ellison said that the Council would talk about considering the resolution at their regular meeting on November 9, 1993.

The Council thanked Ms. Lawrence and her group for handling this matter in such an orderly fashion.

VII. ADJOURNMENT:

Vice-Mayor Ellison adjourned the meeting at 7:40 p.m.

William F. Malcarney
CITY CLERK

MAYOR

Tuesday - November 9, 1993 - 4:00 p.m.
Banquet Room - Asheville Civic Center

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Peterson gave the invocation.

RECOGNITION OF NEWLY ELECTED OFFICIALS

Mayor Michalove recognized the newly elected officials who were present at the meeting.

I. PROCLAMATIONS:

A. RECOGNITION OF ADAM COX AS "VOLUNTEER HONORARY DRUG ABUSE RESISTANCE EDUCATION OFFICER"

Mayor Michalove recognized Adam Cox as "Volunteer Honorary Drug Abuse Resistance Education Officer" and acknowledged his efforts in educating young people about the hazards of drug abuse.

B. PRESENTATION OF QUARTERLY B*E*S*T AWARD TO DAVID MILLER, PUBLIC WORKS DEPARTMENT

City Manager Bean presented David Miller with the quarterly B*E*S*T award. He said that David was nominated by Hall Fletcher Elementary School for helping them remove several large piles of branches and other materials on their clean-up day so their campus would look good for the beginning of the school year. He said that David had a very good attitude in helping and worked beyond closing and he is very deserving of thanks and praises.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-10B OF APPENDIX A OF THE CODE ORDINANCES REGARDING NONCONFORMING SIGNS

Mayor Michalove announced that this public hearing has been canceled due to the Planning and Zoning commission's tabling of consideration of the ordinance amendment until January, 1994.

B. PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS

Mayor Michalove announced that this public hearing has been canceled due to the Planning and Zoning commission's tabling of consideration of the ordinance amendment until January, 1994.

C. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH 22 OLIVE STREET

Mayor Michalove opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Safety Division, said that on April 7, 1992, and August 3, 1992, the Inspections Division inspected 22 Olive Street and found it was unfit for human habitation. He showed Council a video tape of the house. He said that inspections revealed that the roof system is in advance disrepair, floors in bad shape, broken windows throughout, electrical panel needs replaced, plumbing system in disrepair and water is off, furnace is missing, exterior chimney is falling away from house, handrails are missing, front porch has holes, lot is overgrown and is very unsanitary. The cost of repairing the structure amounts to more than 60% of the value of the property.

Concern was expressed that someone may be living in the home, although the water and electricity have been disconnected. Upon inquiry of Councilman Chris Peterson about if there was furniture in the home, Mr. Trantham stated that he was not certain. He said legally all items of value must be removed, including fixtures, etc.

Vice-Mayor Ellison inquired if there was a master list of structures within the city limits awaiting demolition. Mr. Robert Hixson, Director of Inspections, advised there is a list, but it is not all inclusive.

The Vice-Mayor expressed concern about demolition if someone is living in the structure.

When asked if any non-profit groups had expressed an interest in refurbishing the structure, Mr. Hixson advised they had not. The Vice-Mayor recommended a review of the demolition process be completed to prevent similar situations.

Councilman Moore expressed concern for the welfare of the individual who may be living at 22 Olive Street should the structure not be torn down.

Mayor Michalove acknowledged the demolition process is lengthy and arduous. Such demolitions can better a community by encouraging neighbors to better their properties. Mayor Michalove advised he was in favor of voting today. Councilman Swicegood also was in favor of voting during the meeting if the City of Asheville would not be held legally responsible.

Vice-Mayor Ellison recommended further discussion be held on this matter at the next Council meeting, and that the Housing Authority be involved. Should someone be found to be living at 22 Olive Street, that individual would be placed at the top of the Housing Authority's list for housing.

Mayor Michalove closed the public hearing at 4:40 p.m.

Vice-Mayor Ellison moved to consider demolition of 22 Olive Street on November 16, 1993. This motion was seconded by Councilman Swicegood and carried unanimously.

D. PUBLIC HEARING RELATIVE TO REZONING PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT AND FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2058 - ORDINANCE REZONING PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD

Mayor Michalove opened the public hearing at 4:42 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the Asheville Planning and Zoning Commission on October 6, 1993, reviewed and recommended approval of rezoning a portion of 1899 Hendersonville Road (PIN No. 9655-13-14-3658) from R-2 to CH and a portion from R-2 to OI, as surveyed.

The subject lot fronts on Hendersonville Road and slopes to the west with a single family detached structure and outbuildings on 1/3 of the lot. The remaining 2/3 of the lot are vacant and wooded. It is currently split zoned: Commercial Highway (CH) on eastern portion fronting Hendersonville Road and the western portion (back to Blake Mountain Estates subdivision) zoned Residential 2 (R-2).

Petitioner is asking for current CH line to be extended back to the west to match adjoining property CH line (1.29 acres of R-2 to be changed to CH); that 3.34 acres west of the proposed CH area be rezoned Office Institutional (OI) and 0.69 acre of R-2 be retained.

2010 Plan shows commercial land use along Hendersonville Road and medium density residential adjoining to the west.

One reason for the Planning staff's disapproval was that the rezoning was not felt to be in accordance with the 2010 Plan. However, the Planning and Zoning Commission approved the request based on Ray Anders' survey, which was submitted to legal staff. The vote was 4-2 for the rezoning.

Councilwoman Field stated that she, too, was concerned that the trees and residential setting of the back portion of the parcel be preserved.

Ms. Jane Gianvito Mathews, member of the Planning and Zoning Commission, advised Council of her reasoning for voting against the request for rezoning.

Mr. Harold Cagle, who owns 11.2 acres nearby, indicated he supported the rezoning.

Mr. Richard Green also expressed his approval for the rezoning.

Mr. Craig Justice, attorney representing the petitioners, spoke in favor of the rezoning and distributed maps of the parcel to Council. Due to the bottle-shaped configuration of the land, development of portions of the land will be difficult. He advised Council that the status of the trees cannot be guaranteed. He said that the requested office institutional zoning of a portion of the land will provide a buffer to the residential areas located nearby.

When Councilman Moore asked if there were buyers lined up for this property, Mr. Justice said that there were not.

Mr. Justice indicated he was not certain if the 2010 Plan actually applied to the parcel in question. Mayor Michalove asked Ms. Pennell to review with Mr. Justice the 2010 Plan as it relates to the property.

Ms. Laurel Eide, representative of the Blake Mountain Homeowners Association, expressed opposition to the rezoning, believing it will lower their property value and adversely affect their quality of life. She distributed photos of her home as it relates to the wooded buffer in the parcel under consideration.

Mr. Jarle Eide also spoke reiterating the Homeowners' opposition to the rezoning request, especially in light of their possibly losing the wooded buffer that currently exists.

Upon inquiry of Councilwoman Field about the rezoning being changed to a lesser classification, City Attorney Slawter advised that this could be done.

Councilman Peterson inquired as to whether there was a conflict of interest in his voting on this matter due to the fact that both he and Councilman Swicegood own property near the land in question. City Attorney Slawter advised he saw no conflict of interest in this matter.

Vice-Mayor Ellison discussed the possibility of adding another 50 feet to the already existing 100 foot buffer.

Councilman Swicegood moved for the adoption of the ordinance. This motion was seconded by Councilman Peterson.

Vice-Mayor Ellison asked if he could amend the above motion to add 50 feet to the wooded buffer, making a buffer of 150 feet. Councilman Swicegood and Councilman Peterson accepted the amendment to their motion.

Councilman Moore asked if actions taken today could affect the legal actions which may be taken by the Eides as they believe they were mislead in terms of the zoning of their lot upon purchase. City Attorney Slawter advised it would not.

Mayor Michalove closed the public hearing at 5:24 p.m.

Mayor Michalove said that members of Council have previously received a copy of the ordinance and it would not be read.

On a roll call vote of 4-3, Ordinance No. 2058 passed on its first reading, with Councilwoman Field, Councilman Moore and Mayor Michalove voting "no".

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. SPECIAL PERMIT FOR REMODEL OF 77 CHURCH STREET, ASHEVILLE, N.C.

Mr. Bob Hixson, Director of Building Safety Division, said that the applicant wishes to repair a Type VI (wood frame structure) at 77 Church Street (inside the fire district) and intends to convert the existing single family dwelling into a business occupancy. State law requires City Council approval and subsequent approval by the North Carolina Department of Insurance.

This application has been reviewed and approved by the Building Inspector, the Fire Inspector, and the Director of Building Safety Division.

Councilwoman Field moved to approve the special permit for 77 Church Street. This motion was seconded by Councilman Worley and carried unanimously.

B. BUDGET AMENDMENT RELATIVE TO RISK MANAGEMENT FUND

City Manager Bean requested this item be postponed until a later date.

C. ORDINANCE NO. 2059 - BUDGET AMENDMENT RELATIVE TO ANNUAL APPROPRIATIONS FOR STREETS AND SIDEWALKS INCLUDING DEBT SERVICE AND APAC-CAROLINA INC. CONTRACT NO. 10

City Manager Bean explained that this budget amendment, in the amount of $6,622,073, sets up the annual appropriations for Fiscal Year 1993/94 required in the street and sidewalk fund.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2059. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2059 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 56

D. ORDINANCE NO. 2060 - BUDGET AMENDMENT RELATIVE TO CONTINUATION OF THE DIESEL FUME EXHAUST SYSTEM PROJECT FOR THE FIRE STATIONS

Mr. Robert Griffin, Executive Assistant in the Fire Department, explained that this budget amendment, in the amount of $30,000, moves the revenue from the General Fund Capital Improvement to the Capital Project Fund. This is a continuation of the Diesel Fume Exhaust System Project for the fire stations. The project is in the Capital Improvement Program. The project began with one station in Fiscal Year 1991 and is scheduled for completion in Fiscal Year 1995 for existing stations not scheduled for relocation. The EPA has determined that diesel fume exhaust is a carcinogen and this system does meet the OSHA regulations for the removal of diesel fume exhaust.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2060. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2060 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 58

F. ORDINANCE NO. 2061 - BUDGET AMENDMENT RELATIVE TO THE PURCHASE OF 800 Mhz RADIO COMMUNICATION SYSTEM

City Manager Bean explained that this budget amendment, in the amount of $500,000, is to complete the final phase of implementation of the radio system. The radios will be for Water, Public Works and Parks.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman moved for the adoption of Ordinance No. 2061. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2061 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 60

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 26, 1993

B. BIDS RELATIVE TO 26 POLICE VEHICLES

Summary: Recommendation for award of three bid items to Matthews Ford Inc., Asheville, NC, in the amount of $323,670 and another bid item to Parkway Chevrolet Inc., Asheville, NC, in the amount of $56,448. A copy of the bid summary is attached hereto as Exhibit "A".

Councilman Swicegood inquired as to the cost of the 26 motor vehicles for the Asheville Police Department. Acting Police Chief Jay Breedlove advised the cost of each vehicle includes the necessary police equipment, which is approximately $2,200 over the base vehicle price. Mr. Norwood Dunn, Purchasing Director, advised the specifications for the vehicles were formulated jointly by Fleet Management and the Police Department. Councilman Swicegood recommended looking into the option of using one-color cruisers to save revenues. Acting Police Chief Breedlove advised a drawback to this suggestion is that as old vehicles were rotated out and new one-color vehicles were rotated in, the cars would not match.

Councilman Moore asked about the reliability of Cameros for police work. Acting Police Chief Breedlove advised the vehicles are very helpful in traffic control, they stand up to heavy use, and are quite maneuverable.

C. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 30, 1993, RELATIVE TO THE ADOPTION OF THE STORMWATER DEVELOPMENT REGULATIONS

D. MOTION SETTING A PUBLIC HEARING ON NOVEMBER 30, 1993, RELATIVE TO REZONING 15 OVERBROOK PLACE FROM R-2 RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT

E. RESOLUTION NO. 93-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF ASHEVILLE, FEDERAL HIGHWAY ADMINISTRATION, NORTH CAROLINA HISTORIC PRESERVATION OFFICER AND ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR THE PURPOSE OF INSURING THAT THE REPLACEMENT OF THE MCDOWELL STREET VIADUCT IS IN ACCORDANCE WITH THE NATIONAL HISTORIC PRESERVATION ACT

Summary: The Memorandum for the procedures and actions to be taken by the Federal Highway Administration State Historic Preservation Office, Advisory Council on Historic District is not adversely affected by the replacement of the McDowell Street viaduct. The City of Asheville will be responsible for maintenance and utility bill payments for the lighting fixtures other than the Evaston type lighting fixtures. There will be approximately 35 fixtures on the bridge. Electrical and maintenance cost for these fixtures calculates to be $10,000 per year. Should other type fixture be required other than the Evaston, additional cost would need to be determined upon selection of the other fixture.

RESOLUTION BOOK NO. 21 - PAGE 168

F. RESOLUTION NO. 93-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CITY'S GROUP LIFE INSURANCE POLICY

Summary: The City Council approved the current contract for term life insurance coverage in September of 1992. Renegotiations have resulted in lower premiums.

RESOLUTION BOOK NO. 21 - PAGE 169

Councilman Swicegood moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 93-168 - RESOLUTION APPOINTING CHRIS PETERSON TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Mayor Michalove explained that the term of Norma Price, as a member on the Water Authority, expired on September 30, 1993. He read the resolution appointing Councilman Chris Peterson as a member of the Asheville-Buncombe Water Authority for a term of three years, term to expire September 30, 1996, or until his successor has been duly appointed and qualified.

He explained that Councilman Charles Worley will continue to serve on the Water Authority after his term as Councilman has ended. He said the individuals who have been interviewed for this vacancy will be asked to remain on the resource list for the next vacancy.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-170. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 170

B. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of October 25-29, 1993: Rosalite Vance (Police), Georgia Ruth Edmonds (Water), Charlotte Homsher (Water), Judy Romick (Water), Dave Campbell (Water), John Klatz (Water), Brenda Campbell (Water), Ruth Bowden (Water), James Wolfe (Water), Phyllis Powell (Water), Ralph B. Brown Sr. (Water), and Diana Morris (Water).

He also said that the following claims were received during the week of November 1-5, 1993: Gail Elmore (Streets), John Rogers (Water), Ruth Ledford (Water), Kaki Roberts (Water), and Veronica Sulkowski (Traffic Engineering).

He said that these claims would be referred to the appropriate insurers for investigation.

C. MOTION TO APPROVE DOWNTOWN STREETSCAPE PLAN

Councilman Worley moved to approve the Downtown Streetscape Plan. This motion was seconded by Councilman Moore and carried unanimously.

D. MOTION RELATIVE TO THE HAYWOOD STREET SIDEWALKS

Councilman Worley moved to excuse Councilwoman Field from voting due to a conflict of interest. This motion was seconded by Councilman Moore and carried unanimously.

Councilman Moore moved that the City reconstruct the Haywood Street sidewalks at such time as the owner of the old Biltmore Hotel completes 50% of their renovation work and that the funding for the project come from the streetscape project. This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Swicegood voting "no".

D. EXECUTIVE SESSION

City Manager Douglas Bean distributed a memo to Council members concerning outside employment by a member of the Water Department. He gave background on the situation.

Vice-Mayor Ellison and Councilman Peterson advised they had been contacted by the media about the situation. Due to the fact that this was a personnel matter, Vice-Mayor Ellison moved to go into Executive Session at 5:50 p.m. This motion was seconded by Councilman Peterson and carried unanimously.

VII. ADJOURNMENT:

After coming out of executive session, Mayor Michalove adjourned the meeting at 6:20 p.m.

William D. Walcott
CITY CLERK

H. M. Michalove
MAYOR

BID SUMMARY
BID REQUEST NO. 419-94

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, NOVEMBER 2, 1993

TWENTY-SIX (26) MOTOR VEHICLES FOR CITY OF ASHEVILLE POLICE DEPARTMENT

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.
I. - 16) Police Vehicles - (Blue & Whites)	MAKE:	1994 Chevrolet	1994 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT COST:	$14,698.00	$14,097.00
	AMOUNT:	$235,168.00	$225,552.00
	DELIVERY:	90 to 120 Days	90 to 120 Days
	EPA MPG CITY:	18	
	ENERGY EFF. COST* (EA)	$18,031.33	,626.41
II. 5) Police Vehicles for Administrative Use with Police Package	MAKE:	1994 Chevrolet	1994 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT COST:	$14,473.00	$13,662.00
	AMOUNT:	$72,365.00	$68,310.00
	DELIVERY:	90 to 120 Days	90 to 120 Days
	EPA MPG CITY:	18	17
	ENERGY EFF. COST* (EA)	$17,806.33	$17,191.41
II.A: Alternate 5) Full Size Standard Production 4-Door Sedans for Police Administration	MAKE:	1994 Chevrolet	1994 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT COST:	$13,339.00	$13,447.00
	AMOUNT:	$66,695.00	$67,235.00
	DELIVERY:	60 to 90 Days	90 to 120 Days
	EPA MPG CITY:	18	17
	ENERGY EFF. COST* (EA)	$16,672.33	$16,976.41
III. 2) Full Size 4 Door Sedans for the Selective Traffic Enforcement Program with Police Package	MAKE:	1994 Chevrolet	1994 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT COST:	$16,150.00	$14,904.00
	AMOUNT:	$32,300.00	$29,808.00
	DELIVERY:	90 to 120 Days	90 to 120 Days
	EPA MPG CITY:	17	17
	ENERGY EFF. COST* (EA)	$19,679.41	$18,433.41
IV. 3) 2 Door Coupes for the Selective Traffic Enforcement Program	MAKE:	1994 Chevrolet	
	MODEL:	1FP87 Camaro	
	UNIT COST:	$18,816.00	
	AMOUNT:	$56,448.00	No Bid
	DELIVERY:	90 to 120 Days	
	EPA MPG CITY:	17	
	ENERGY EFF. COST* (EA)	$22,345.41	
TERMS:		Net 30 Days	Net 30 Days
BID DEPOSIT:		5% Bid Bond	5% Official Check

*EEC: BID PRICE + $\frac{60,000}{\text{EPA MPG}}$ X $1.00 gal.

Recommendation of award of this bid was not affected by the energy efficiency cost.

**The following companies were mailed bid packages but did not respond: Ken Wilson Ford, Inc., Canton, N. C.; Prestige Dodge Subaru, Asheville, N. C.; Fletcher Motor Company, Fletcher, N. C.; McMurray Chevrolet, Black Mountain, N. C.; and Woodcock Motors, Black Mountain, N, C.

Exhibit "A"

Tuesday - November 16, 1993 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

PROCLAMATIONS:

A. RESOLUTION NO. 93-169 - DEDICATION OF THE WILLIAM F. WOLCOTT JR. BUILDING

Mayor Michalove read the resolution stating that Mr. Wolcott has faithfully and conscientiously served and continues to serve the City of Asheville and its citizens for over 43 years. He said that Mr. Wolcott has not only been instrumental in the construction and completion of the public works facility, but the Asheville Regional Airport, the Asheville Civic Center, the vehicle maintenance facility, the Rankin Avenue Parking Garage, the Wall Street Parking Garage, and many other projects too numerous to mention.

He said on behalf of the Asheville City Council and all our residents, we do hereby express to William F. Wolcott Jr. the everlasting thanks of a grateful community for this magnificent building and hereby name the public works building as the William F. Wolcott Jr. Building.

Resolution No. 93-169 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 171

B. PROCLAMATION PROCLAIMING THE WEEK OF NOVEMBER 21-27, 1993, AS "NATIONAL FAMILY WEEK"

Mayor Michalove proclaimed the week of November 21-27, 1993, as "National Family Week" and presented Ms. Cassie Pavone with the proclamation.

C. RESOLUTION NO. 93-165 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE BILLY E. RICE, TRAFFIC SPECIALIST

Mayor Michalove read the resolution stating that Billy Rice has been an employee for 24 years and has requested retirement from his position as Traffic Specialist. He expressed City Council's appreciation to Billy for his service to the City of Asheville and its citizens.

Resolution No. 93-165 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 167

D. RECOGNITION OF RAY KISIAH AS THE PRESIDENT OF THE AMERICAN ACADEMY FOR PARK AND RECREATION ADMINISTRATION

City Manager Bean recognized Ray Kisiah, Director of Parks and Recreation, as being recently installed as President of the American Academy for Park and Recreation Administration.

E. RECOGNITION OF NEWLY ELECTED OFFICIALS

Mayor Michalove recognized the newly elected officials who were present at the meeting.

UNFINISHED BUSINESS:

A. AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 22 OLIVE STREET

At the request of City Manager Bean, Councilman Worley moved to table this matter until November 30, 1993, in order to give staff an opportunity to work with the Housing Authority to provide adequate housing to the individual presently living in the structure. This motion was seconded by Councilman Moore and carried unanimously.

B. SECOND READING OF ORDINANCE NO. 2058 - AN ORDINANCE TO REZONE PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT AND FROM R-2 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

Mayor Michalove said that the public hearing on this ordinance was had on November 9, 1993, at which time the ordinance passed on first reading.

Ms. Carol Pennell, Urban Planner II, gave Council a brief update on the matter, corrected a comment made at the public hearing, and explained the motion made by Vice-Mayor Ellison on November 9.

Ms. Laurel Eide presented Council with a petition containing 21 signatures, dated November 15, 1993, opposing the proposed rezoning. She also presented several letters in opposition of the rezoning.

Councilman Worley moved to table the second reading of this ordinance until November 30, 1993, in order to give property owners in the area more time for negotiating. This motion was seconded by Councilman Moore and carried unanimously.

NEW BUSINESS:

A. AUTHORIZATION TO EXECUTE AGREEMENT WITH THE GROVE PARK INN RESORT AND MEDALIST SPORTS TO HOST THE TOUR DUPONT

City Manager Bean said the City became aware a short time ago that the Tour DuPont, America's premiere bicycle race, that starts in Delaware and goes through Pennsylvania, Maryland, Virginia, and North Carolina will be coming to Asheville. The Asheville leg will begin in Banner Elk with a finish line in downtown. This is a world-wide event with media exposure that cannot be bought. The Grove Park Inn Resort has pursued this event, and is a prime sponsor. He said that their staff will be working on many aspects of the race and they, in fact, are hosting the racers for one night. There are a number of things the host city needs to do such as close streets, provide security, etc. There is a contract that must be signed with the sponsor and Medalist Sports who is the promoter of the event. The City will either have to enter into the primary contract, or have a side agreement with The Grove Park Inn Resort to provide public services. The Chamber of Commerce is raising funds that will be necessary to pay for the amenities, and our responsibility will be the coordination of some volunteers, and Police and Public Works services on race day. The race is scheduled to be in Asheville on May 12-13, 1994.

Mr. Craig Madison, representing The Grove Park Inn, and Ms. Carolyn Ketchum, representing the Chamber of Commerce, spoke about the economic benefits the Tour DuPont will bring to the Asheville area.

Councilwoman Field moved to authorize the City Manager to execute an agreement with The Grove Park Inn and Medalist Sports to host the Tour DuPont. This motion was seconded by Vice-Mayor Ellison and carried unanimously.

B. ORDINANCE NO. 2062 - AN ORDINANCE TO REDUCE SPEED ON WEMBLEY ROAD FROM 35 MPH TO 25 MPH

City Manager Bean introduced the new Traffic Engineer, James H. Cheeks, Jr.

Mr. James Cheeks said that a petition was received on August 27, 1993, requesting the speed limit on Wembley Road be reduced to 25 miles per hour. He said that the posted speed limit is 35 mph and radar observations indicate that the 85th percentile speed is 33 mph and the pace speed ranges from 21 to 30 mph.

Wembley Road is a residential roadway, with intersecting side streets that serve as the access route to the Asheville Country Club. The vertical and horizontal alignment of Wembley dictates that additional stopping sight distance is required of motorists who use this roadway. A reasonable acceptable speed limit to address these issues along Wembley Road would be to use the average of the upper and lower limits of the pace speeds. Using this method, the speed limit on Wembley Road from Merrimon Avenue to Windsor Road should be reduced to 25 mph.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2062. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2062 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 62

C. ORDINANCE NO. 2063 - ORDINANCE AMENDING CHAPTER 3 (ANIMALS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Acting Police Chief Jay Breedlove said that currently all violations of the animal control ordinance constitute a civil penalty. With the exception of restraint of animals which shall continue to be enforced civilly, this amendment will make all other violations of the animal control ordinance a misdemeanor.

Vice-Mayor Ellison moved to amend the ordinance to make this provision effective in 30 days from date of adoption, in order to educate the public on this change. This motion was seconded by Councilman Moore and carried unanimously.

Mayor Michalove said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Moore moved for the adoption of Ordinance No. 2063. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2063 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 63

CONSENT:

A. RESOLUTION NO. 93-170 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 35 TONS OF SCRAP METALS BY SEALED BID

Summary: This is for the disposal of approximately 30 tons of scrap metals for the Water Maintenance Division, approximately 5 tons of scrap metals for the Water Production Division and approximately 200 pounds of scrap copper for the Civic Center. Estimated revenue of $8,500.

RESOLUTION BOOK NO. 21 - PAGE 172

B. MOTION TO SET PUBLIC HEARING ON THE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS) FOR NOVEMBER 30, 1993.

C. RESOLUTION NO. 93-171 - RESOLUTION AUTHORIZING THE CONVEYANCE OF REAL PROPERTY TO THE ASHEVILLE CITY SCHOOL BOARD

Summary: Buncombe County owns five parcels of real property due to foreclosures for nonpayment of ad valorem taxes. The lots are also held in trust by the County for the City. The lots are adjoining the Isaac Dickson School. The Asheville City Board of Education is about to undertake a project for improvement of traffic flow at the Isaac Dickson School. In order to undertake said project, the School Board is in need of the five lots. This resolution gives the City's approval to convey the five lots to the School Board. The resolution also authorizes the Mayor to sign all documents to complete the conveyance.

RESOLUTION BOOK NO. 21 - PAGE 175

Councilman Moore moved for the adoption of the consent agenda. This motion was seconded by Councilman Worley and carried unanimously.

PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO FILING AN APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION FOR FUNDS TO PROCURE SHELTERS AND BENCHES FOR THE TRANSIT SYSTEM

RESOLUTION NO. 93-172 - RESOLUTION AUTHORIZING THE EXECUTING OR FILING, AS APPROPRIATE, OF NORTH CAROLINA OF TRANSPORTATION GRANT AGREEMENTS, GRANT APPLICATIONS, ANNUAL OR BIENNIAL APPLICATIONS, ANNUAL BUDGETS, AND OTHER SUCH DOCUMENTS, AS APPROPRIATE, WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION PURSUANT TO RELEVANT SECTIONS OF THE FEDERAL TRANSIT ACT OF 1991, AS AMENDED

Mayor Michalove opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transit Planner, explained that the City is making application to the Federal Transit Administration for funds to procure shelters and benches for the transit system. He said the estimated project cost is $110,000 - the federal share is estimated to be $88,000, the state share is estimated to be $11,000 and the local share is estimated to be $11,000.

Mayor Michalove closed the public hearing at 4:40 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-172. This motion was seconded by Councilman Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 177

B. PUBLIC HEARING RELATIVE TO THE REVISED MINIMUM HOUSING CODE

Mayor Michalove opened the public hearing at 4:41 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mayor Michalove set the stage for the public hearing by asking that the audience only focus on the four items the Committee failed to reach consensus on - those four items being screens, minimum insulation requirements, inspection frequency for rental property and inspection of owner-occupied homes at time of sale.

Mr. Paul Carston, 125 Overlook Drive, felt that if older houses are well insulated, there would be no need for inspections every 3-4 years.

Ms. Catherine Bentley, 824 Fairview Street, said that once a tenant calls the landlord about a problem, it should be fixed within one month.

Mr. Andy Reed, representing Citizens for Quality Development, urged Council to raise the adequate heating temperature from 58 deg. f to at least in the low 60's deg. f. He also supported a requirement that R-19 insulation be required in attic ceilings when attic space is accessible and foundation skirting be required on all appropriate housing units. He suggested a period of one year for compliance.

Mr. Scott Dedman, Executive Director of Mountain Housing Opportunities, urged Council to raise the adequate heating temperature from 58 deg. f. to 68% deg. f. and also asked Council to inspect older houses every three years.

Ms. Beth Maczka, Executive Director of Affordable Housing Coalition of Asheville and Buncombe County, read a prepared statement asking Council to adopt R-19 minimum attic insulation requirements for accessible attic areas.

Ms. Katherine Dix, 10 Alexander Drive, read a prepared statement asking Council to require basic standards to include minimum insulation, skirting around the foundation of homes, and a heating capacity of 68 deg.

Ms. Molly Sandridge, property manager, asked Council to (1) raise the adequate heating temperature to 68 deg. f., (2) take a positive approach regarding insulation by perhaps providing for a tax credit given in the year the improvement is made, (3) take a second look at the enforcement provisions, (4) target unfit units, and (5) consider long-range implications to make sure that the ordinance is workable in future years.

Mr. Mike Tavener, President of Asheville Board of Realtors, addressed the issues of enforcement of the Code and inspection frequency. He said the Asheville Board of Realtors suggested there be no mandatory certificates of inspection and there should not be a term policy on rental or residential properties. They support a complaint only basis with target areas as dictated by the City Council. He questioned why there would be periodic inspections on owner-occupied property since there is already in place sales contracts that call for inspections, private home inspectors, problems noted by appraisers and lender's requirements. He felt that if the City targets individuals and properties that are causing the problems, the same goal will be achieved. He suggested Council investigate what other cities are doing.

Ms. Donna Beck, Program Director for the Affordable Housing Coalition of Asheville and Buncombe County, urged Council to raise the adequate heating temperature to 68 deg. f. and also not to use the complaint only system because most people will be afraid of losing their apartments if they complain.

Mr. Mike Summey, owner of rental properties, spoke in opposition of mandatory three year inspections and felt that a complaint only or target area should be the basis for inspections.

Ms. Karen Dedman, family physician, recommend the raising the adequate heating temperature to 68 deg. f.

Mr. Tony Sayer, 27 Florida Avenue, felt that the complaint only system would not do the job. He felt that three year regular inspections would catch deteriorating situations before too much deteriorating occurred. He urged Council to begin the process quickly.

Mr. Mark Clifton felt that inspections would be too costly and would run rental property owners out of Asheville. He spoke in support of inspections in target areas.

Mr. Langdon Ammen, owner of rental property, spoke in favor of inspections on a demand system.

Mr. Rubin Falk supported older houses being inspected every three years.

Mr. Peter Laroche, Executive Director of the Consumer Credit Counseling Service and member of the Affordable

Housing Coalition, supported the raising of the adequate heating temperature to 68 degrees f., R-19 insulation in attic ceilings when attic space is available and foundation skirting.

Ms. Milly Buchanan urged Council to look at the water conservation issue and supported inspections every three years.

Ms. Minnie Jones stated reasons why the adequate heating temperature needed to be raised to 68 deg. f. She didn't favor the complaint system and also felt the targeting of inspections was discriminatory.

Mr. Bob Tinkler recommended the raising of the adequate heating temperature to 68%, foundation skirting and R-19 insulation in attic ceilings when attic space is accessible. He mentioned that some people can't hear or see the need for inspections, therefore regular inspections are necessary. He spoke against the target inspections.

Mr. George Morosani spoke in support of a target or complaint system. He questioned the possibility of inspection duplication.

Mr. Bert Sonner, Associate Director for the Self-Help Credit Union, spoke in support of raising the adequate heating temperature to 68 deg. f. when the outdoor temperature is Zero. He also recommended that the unsafe conditions section be amended to read substantially as follows: A dwelling would be considered unsafe if it had "no operating heating facilities capable of meeting the requirements of Section A.5.a. of 8-22 (minimum standards) on any day when the outside temperature is capable of causing the interior of the dwelling to fall below 68 deg. He spoke in support of a strong complaint system in addition to regular inspections.

Mr. Bruce Peterson, 213 North Bear Creek Road, supported raising the adequate heating temperature to 68 deg. f.

Mr. Bruce McTaggert asked the Code be clarified to require inspectors to cite the specific Code section when violations are indicated and that the inspectors not be able to amend their statement after five days, and especially after a sales contract has been accepted.

Mr. Jim Skalski, 20 Aurora Drive, spoke in support of raising the adequate heating temperature to 68 deg. f. when

the outdoor temperature is Zero, require R-19 insulation in attic ceilings when attic space is accessible, foundation skirting and older housing units being inspected every three years.

Ms. Carolyn Wallace, representative of Citizens for Quality Development, recommended regular inspections every three years for houses over 20 years old, the raising of adequate heating temperature to 68 deg. f. and R-19 insulation in attic ceilings when attic space is accessible. She suggested a three year period of compliance.

Mr. Jim Barrett, attorney for Pisgah Legal Services, noted that renovations needed to be done as needed, not wait until the structure is so dilapidated that it is very expensive to repair.

Ms. Hazel Fobes echoed Carolyn Wallace's comments.

Mayor Michalove closed the public hearing at 6:10 p.m.

It was the consensus of Council to hold another worksession on this matter on November 23, 1993, at 1:00 p.m. in Room 623 of the City Hall Building.

Councilman Peterson suggested representative from the Fire Department at the worksession in order to inform the Council if there are any safe heating units and possibly substitute heating units.

Councilman Worley clarified the Committee's intent on the adequate heating temperature and suggested a 68 deg. f. temperature at a 14 deg. f. outside air temperature.

OTHER BUSINESS:

A. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of November 8-12, 1993: John McPherson (Water) and Leota Stroud (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:15 p.m.

Brenda A. Malcolm, CMC
CITY CLERK

W.N. Michalove
MAYOR

Tuesday - November 30, 1993 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Kenneth M. Michalove, Presiding; Vice-Mayor Eugene W. Ellison; Councilwoman Barbara Field; Councilmen William G. Moore, Chris J. Peterson, Joseph Carr Swicegood and Charles R. Worley; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Worley gave the invocation.

ANNOUNCEMENT - PUBLIC HEARING RELATIVE TO THE ADOPTION OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

Mayor Michalove stated that information was presented to the City Council at their Pre-Council meeting earlier in the afternoon and asked for the City Attorney to comment on the information.

City Attorney Slawter stated that based upon the information presented, it was his opinion that the ordinance before the Council today was not in sufficient form for adoption.

Mayor Michalove said that because of the opinion of the City Attorney, he felt that it would be more beneficial for the new Council taking office on December 7, 1993, to hear the public comments. Even if public comments were taken today, the Council would not have an ordinance in front of them to vote on. And, by the time the ordinance is in shape for public comment, it will have changed significantly from what the Council has before it.

Councilman Moore was very much opposed to postponing the public hearing due to the size of the audience present wishing to voice their opinions and the length of time it has taken in order to get this ordinance to the Council.

Councilman Worley was concerned about the people present who did make the trip to voice their comments, however, since the ordinance may be changed drastically, he felt a postponement of the public hearing would be in order. He suggested a copy of the proposed ordinance be mailed to any interested person prior to the public hearing date.

Mayor Michalove spoke in favor of holding the public hearing at this time since the new Councilmembers were in the audience and would benefit from the public comment.

Vice-Mayor Ellison moved to postpone the public hearing until January 25, 1994, with the understanding that the new Council will not pass the ordinance on that date, and to mail a copy of the proposed ordinance to interested parties at least one week before the public hearing. This motion was seconded by Councilman Swicegood and carried on a 4-3 vote, with Councilwoman Field, Councilman Moore and Mayor Michalove voting "no."

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER 29 - DECEMBER 3, 1993, AS "GREATER ASHEVILLE LIONS CAMPAIGN SIGHTFIRST"

Mayor Michalove proclaimed the week of November 29-December 3, 1993, as "Greater Asheville Lions Campaign Sightfirst" in the City of Asheville.

Ms. Pat Leckey, President of the Greater Asheville Lions Campaign Sightfirst, introduced representatives of the Lions Club and gave a brief report regarding the Lions Club.

B. RESOLUTION NO. 93-173 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JOSEPH WHITAKER, WATER PLANT TECHNICIAN

Mayor Michalove read the resolution stating that Joseph Whitaker has been an employee for 30 years and has requested retirement from his position as Water Plant Technician. He expressed City Council's appreciation to Joseph for his service to the City of Asheville and its citizens.

Resolution No. 93-173 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 179

C. RESOLUTION NO. 93-174 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RONDA CASTLEWITZ, POLICE OFFICER SR.

Mayor Michalove read the resolution stating that Ronda Castlewitz has been an employee for 6 years and has requested retirement from her position as Police Officer Sr. He expressed City Council's appreciation to Ronda for her service to the City of Asheville and its citizens.

Resolution No. 93-174 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 180

D. RESOLUTION NO. 93-175 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD A. QUEEN, POLICE OFFICER SR.

Mayor Michalove read the resolution stating that Richard A. Queen has been an employee for 18 years and has requested retirement from his position as Police Officer Sr. He expressed City Council's appreciation to Richard for his service to the City of Asheville and its citizens.

Resolution No. 93-175 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 181

E. RESOLUTION NO. 93-176 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE KENNETH K. WADDELL, DISTRICT FIRE CHIEF

Mayor Michalove read the resolution stating that Kenneth Waddell has been an employee for 32 years and has requested retirement from his position as District Fire Chief. He expressed City Council's appreciation to Kenneth for his service to the City of Asheville and its citizens.

Resolution No. 93-176 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 182

F. RESOLUTION NO. 93-177 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JACK D. MOODY, FIREFIGHTER III AND DRIVER

Mayor Michalove read the resolution stating that Jack D. Moody has been an employee for 30 years and has requested retirement from his position as Firefighter III and Driver. He expressed City Council's appreciation to Jack for his service to the City of Asheville and its citizens.

Resolution No. 93-177 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 183

G. RESOLUTION NO. 93-182 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JAMES "MIKE" JONES, DISTRICT FIRE CHIEF

Mayor Michalove read the resolution stating that James "Mike" Jones has been an employee for 29 years and has

requested retirement from his position as Assistant Fire Chief. He expressed City Council's appreciation to Mike for his service to the City of Asheville and its citizens.

Resolution No. 93-182 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 188

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 15 OVERBROOK PLACE FROM R-2 RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT

ORDINANCE NO. 2064 - ORDINANCE TO REZONE 15 OVERBROOK PLACE FROM R-2 RESIDENTIAL DISTRICT TO R-3 RESIDENTIAL DISTRICT

Mayor Michalove opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the property (9658.11.66.3246) is a corner lot of 4.3 acres with a developed church facility. Existing neighborhood land uses include Springwood Mobile Home Park directly across the street to the southeast and Governor's View Apartments across the street from the subject property to the southwest. The Ranch Apartments are one block away. The subject property is contiguous to CH zoning along Tunnel Road. Existing conditions in the area reflect a conflict with the low density land use notation in the 2010 Plan. Staff feels that the area's land use is better represented as medium density residential. Therefore, the staff recommendation is approval of the rezoning request from R-2 Residential District to R-3 Residential District.

The Planning and Zoning Commission, on November 3, 1993, reviewed and recommended approval (6-1) of rezoning 15 Overbrook Place from R-2 Residential District to R-3 Residential District.

Ms. Marianna S. Williams, Clerk of Sessions for Westminister Presbyterian Church, spoke in support of the proposed rezoning which will allow their part-time day care center to be full-time.

Ms. Angelina Spencer, 44 Broadview Avenue, also spoke in support of the rezoning.

Mayor Michalove closed the public hearing at 4:43 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2064. This motion was seconded by Councilman Worley.

On a roll call vote of 7-0, Ordinance No. 2064 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 65

B. PUBLIC HEARING ON THE COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY (CHAS)

RESOLUTION NO. 93-183 - RESOLUTION TO ADOPT THE CONSOLIDATED COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY

Mayor Michalove opened the public hearing at 4:44 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Sherman Fearing, Housing Development Analyst, explained that CHAS is a report required by HUD for the City and the Regional Housing Consortium to be eligible for funding under certain HUD programs including CDBG and HOME. The CHAS includes housing needs and strategies to address the needs within the jurisdiction of the Consortium which includes Buncombe, Henderson, Madison and Transylvania Counties. There are 84,688 occupied homeowner units and 31,235 occupied renter units within the area. Elderly households 62 and over comprise of 31% of all households. The total housing needs are 52,622 units. Primary funding resources for addressing needs will be HUD CDBG and the HOME Investment Partnerships Program. Priority for housing assistance will be for low income rental households. The annual goals is to assist 331 renter units and 176 owner units. The City, as Lead Entity for the Consortium, will monitor implementation and publish the Performance Report after the close of Fiscal Year 1994.

Mr. Fearing said that CHAS must undergo a 30-day public comment period, which began October 29 and ended November 29. Written comments from the Housing Assistance Corporation of Henderson County and the Affordable Housing Coalition of Asheville and Buncombe County were received and summarized as follows:

Affordable Housing Coalition

1) The CHAS process needs more community input;
2) Dedicated revenue source for affordable housing
3) Local housing bonds
4) Assess a local financial institution's involvement in affordable housing as a factor in deciding where City deposits will be located; and
5) Employer assisted housing program sponsored by the NC State Housing Finance Agency in partnership with the City

Housing Assistance Corporation of Henderson County

A homeless survey was conducted by a subcommittee of the Planning Alliance for Community Empowerment, an alliance located in Henderson County comprised of public agencies, private non-profit organizations and funding agencies. This survey was conducted from May 1 through July 31 1993. The date indicated that 50% of the homeless households surveyed were female-headed households.

He said that staff recommends Council adopt the CHAS as presented, including the comments received during the 30 day public comment period. The Housing and Community Development Committee has reviewed the CHAS and recommended approval at the last Committee's meeting held on November 17, 1993.

Councilwoman Field, Chairman of the Asheville Regional Housing Consortium, said that the Consortium supports CHAS and she is personally committed in finding some kind of revenue stream for affordable housing in our community over the next two years.

Vice-Mayor Ellison and Councilman Peterson, members on the Housing and Community Development Committee, spoke about the fine job staff did in preparing the CHAS and both members supported the document.

Councilman Peterson stated that Vice-Mayor Ellison will be missed on the Committee (as his term on Council will be ending) and thanked him for advocating housing for the elderly and poor.

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, spoke in favor of the CHAS and clarified some points.

Mayor Michalove closed the public hearing at 4:57 p.m.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Ellison moved for the adoption of Resolution No. 93-183. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 189

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2065 - ORDINANCE ESTABLISHING THE REVISED MINIMUM HOUSING CODE

Mayor Michalove stated that a public hearing on this matter was held on November 16, 1993. On November 23, 1993, the City Council met in a worksession to develop consensus on unresolved issues.

The Fire Department's Director of Building Safety Bob Hixson summarized the City Council's most recent actions with regard to development of the final draft of the revised Minimum Housing Code. The principal actions included:

1. Establishment of heating capacity of residential furnaces at a minimum of 68 deg. f. at an outside design temperature of 14 deg. f.;

2. Establishment of an insulation standard to be effective five years after the date of Council adoption of the ordinance including a minimum insulation value of R-19 placed in accessible attic space of a dwelling;

3. Identification of an inspection schedule for rental dwellings based on age of the dwelling (or building) and the number of dwelling units in a particular building;

4. Development of an inspection frequency standard for owner occupied dwellings, which provides for a "exemption certificate" for dwellings held by one owner for less than seven years; and

5. A recommended effective date of July 1, 1994, to provide for development of inspection procedures, checklists for inspectors (and for dwelling owners and occupants) and inspection scheduling.

Enforcement of the revised Minimum Housing Code as proposed will require 2.5 housing code inspectors for implementation at an estimated expenditure of $85,000.

Fire Chief John Rukavina answered questions relative to portable heaters at the request of Ms. Hazel Fobes.

Ms. Leni Sitnick, requested that the literature Fire Chief Rukavina supplied on November 23, 1993, to the City Council regarding portable heaters be used as a handout for educational purposes to people who use portable heaters.

Vice-Mayor Ellison moved for the adoption of Ordinance No. 2065. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2065 passed on its first reading and final reading

ORDINANCE BOOK NO. 14 - PAGE 67

B. AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 22 OLIVE STREET

At the request of Assistant Director of Building Safety Jeff Trantham, Vice-Mayor Ellison moved to table action in order to give staff more time to work with the Housing Authority to provide adequate housing to the individual presently living in the structure. This motion was seconded by Councilman Worley and carried unanimously.

C. SECOND READING OF ORDINANCE NO. 2058 - AN ORDINANCE TO REZONE PORTIONS OF A LOT LOCATED AT 1899 HENDERSONVILLE ROAD FROM R-2 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Michalove said that the public hearing on this ordinance was had on November 9, 1993, at which time the ordinance passed on first reading. The second reading was postponed on November 16, 1993, in order to give the property owners in the area more time for negotiating.

At 5:05 p.m., and at the request of City Attorney Slawter, Councilman Moore moved to go into executive session relative to a legal concern. This motion was seconded by Councilman Peterson and carried unanimously.

At 5:10 p.m., Vice-Mayor Ellison moved to come out of executive session. This motion was seconded by Councilwoman Field and carried unanimously.

Vice-Mayor Ellison said that he has toured the property in question and cannot support the rezoning request as proposed.

At the request of Mayor Michalove, City Attorney Slawter explained that at this time Council had the following options available (1) Council could vote on the rezoning and if the ordinance was not adopted, the petitioners would have to wait a year and then start the rezoning process all over again (through the Planning and Zoning Commission and then though City Council); (2) the petitioners could withdraw their petition and file a new petition starting the rezoning process all over again; or (3) the petitioners could amend their petition.

Mr. Craig Justice, attorney representing the petitioners, amended their petition to rezone only the extension as surveyed of Commercial Highway on the eastern part of subject lot at 1899 Hendersonville Road from R-2 Residential District. He then withdrew the remaining request of the portion from R-2 Residential District to OI Office Institutional District.

Upon inquiry of Mayor Michalove, Ms. Pennell stated that staff and the Planning and Zoning Commission supported the rezoning request as Mr. Justice stated above.

On a roll call vote of 7-0, Ordinance No. 2058, as amended, passed on its second and final reading.

ORDINANCE BOOK NO. 14 - PAGE 51

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR SAVOY SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that Tom Savoy is seeking final plat approval of the subdivision of a 4.33 acre parcel located at 850 New Haw Creek Road. The property is zoned R-2 Residential and is surrounded by single-family residential properties. The proposal is to divide the property into two lots (1 at 2 acres and 1 at 2.33 acres). One of the lots would front on New Haw Creek Road and the other would front on Old Haw Creek Road.

All utilities have approved the availability of services to the site and the final plat does meet the requirements of the Zoning Ordinance and Subdivision Regulations.

At their November 3, 1993, meeting, the Planning and Zoning Commission approved the preliminary plat of the Savoy Subdivision with one condition, i.e., if a septic tank is utilized, availability must be approved by the Buncombe County Health Department.

Vice-Mayor Ellison moved to approve the final plat of Savoy Subdivision subject to the one condition noted by the Planning and Zoning Commission. This motion was seconded by Councilwoman Field and carried unanimously.

B. RESOLUTION NO. 93-184 - RESOLUTION AMENDING SECTION 47 OF THE CITY OF ASHEVILLE PERSONNEL POLICY (FAMILY AND MEDICAL LEAVE POLICY)

City Manager Bean said that the Family and Medical Leave Act of 1993 (FMLA) became effective August 5, 1993. The law guarantees 12 weeks of leave to eligible employees for specified reasons. Section 47 of the City's Personnel Policy, which authorizes, but does not guarantee, up to six months of leave needs to be amended to comply with the FMLA.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Moore moved for the adoption of Resolution No. 93-184. This motion was seconded by Councilman Worley and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 191

C. ORDINANCE NO. 2066 - BUDGET AMENDMENT RELATIVE TO VALLEY SPRINGS PARK CONSTRUCTION CONTRACT

City Manager Bean explained why the budget amendment is in the amount of $155,000 when the actual cost overrun to complete the project is $74,925. The amount will be paid for by delaying and eliminating other park projects currently shown in future years of the Capital Improvement Plan.

Upon inquiry of Councilman Swicegood, Director of Parks and Recreation Ray Kisiah explained why the design was changed with regard to the canopy instead of a fixed structure.

Mayor Michalove stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Worley moved for the adoption of Ordinance No. 2066. This motion was seconded by Councilman Moore.

On a roll call vote of 7-0, Ordinance No. 2066 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 107

D. RESOLUTION NO. 93-185 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH BUNCOMBE CONSTRUCTION COMPANY FOR CONSTRUCTION OF IMPROVEMENTS TO THE BALLFIELD COMPLEX AT VALLEY SPRINGS SCHOOL

City Manager Bean said that the South Buncombe Youth League Program serves approximately 850 youth in baseball, softball, soccer, and football. In an agreement with the Superintendent of Buncombe County Schools, the City of Asheville will develop the Valley Springs Ballfield Complex which will be jointly used by the schools and the community. Improvements include reorienting, regrading and seeding five ballfields, installing lights on two ballfields, constructing restroom/concession facility, storage facility, dugouts, fencing, landscaping, and walkways. This is the Second Phase of this project. The first phase included construction of a lighted baseball/soccer field on the adjoining property which was the former location of the old Valley Springs School.

He said bids were solicited and received for the construction of various facilities as follows: A & B Construction - $237,705; D. Michael Ward - $204,000; H & M Constructors - $195,724; J. Cole Construction - $193,800; G.E.M. Constructors - $183,898; and Buncombe Construction - $179,340.

Mayor Michalove said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Worley moved for the adoption of Resolution No. 93-185. This motion was seconded by Councilman Moore and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 194

F. APPEAL OF TREE/GREENWAY COMMISSION DECISION

City Manager Bean gave a brief report to the Council stating that Mr. Jerry Hobbs of 106 Old Toll Road requested permission from the Tree/Greenway Commission to cut some trees that were obstructing his view from his home. Some of

the trees happen to be on City right-of-way, therefore, are within the jurisdiction of the Tree/Greenway Commission. Initially Mr. Hobbs submitted his request to Ray Kisiah, Director of Parks and Recreation, who informed him that his request was denied based upon a sight visit by City staff and a member of the Commission. Mr. Hobbs then appealed that decision to the Tree/Greenway Commission. The Commission, sitting as an appeal's committee, heard Mr. Hobbs' request, visited the site and subsequently denied his request. After receiving their decision, he was informed that a further appeal could be made to the Asheville City Council. Mr. Hobbs does have a letter from Mr. William F. Jureit who lives at 36 Blue Briar Road stating that Mr. Hobbs could have the trees removed as long as he had the approval of the City and that no mature, valuable hardwood trees were removed.

At the request of Mayor Michalove, City Attorney Slawter said that Mr. Hobbs would have no further appeal beyond the City Council.

Mr. Hobbs passed out information while urging the Council to allow him to prune four trees in order to have a good view from his house on Old Toll Road. He presented Council with letters from three realtors who felt that if the trees were not pruned, the value of his home would be decreased. He said that people who live on a mountain live there mainly because of the view. He said that he pruned the trees years ago and no damage was done to them by that pruning.

Mr. Dennis Wilson, member of the Tree/Greenway Commission ("Commission"), explained that as a policy, the Commission does not top trees because it weakens the tree. He explained that members of the Commission visited the site and at first felt that if he thinned the trees, he would have a view. But, when they went down to the trees at the street, they found that the trees actually supported the road. The trees were very tall and high headed and they felt that if they were pruned the whole crown of the tree would have to come off and all you would have left would be four "telephone poles". He explained that the Commission removes trees only if they are damaged, diseased or cause a hazard. The Commission felt that the only reason Mr. Hobbs wants to prune the trees is to enhance his private property.

Ms. Leni Sitnick, member of the Commission, was concerned about the Commission setting a precedent. She questioned Mr. Jureit's right to give permission to cut trees that were located on the City's right-of-way. She stated that the Commission's advice should be weighed very heavily because they are Council's advisory body on tree

matters. Other than setting a dangerous and bad precedence, there is the issue of undermining the road because the roots are clearly imbedded in the road and taxpayer's money should not be used to repair it. In addition, the four trees in question are on a steep embankment and removal will cause severe erosion.

Mr. Lowell Orbison, member of the Commission, also defended the Commission's denial of the request to prune the trees. He felt they would be seriously damaged and open to infection if topped.

Councilman Moore expressed his appreciation to all the members on the Tree Commission for volunteering their time and expertise.

Vice-Mayor Ellison moved to allow Mr. Hobbs to trim and prune the four trees but in return Mr. Hobbs donate 25 trees for Quality Forward to plant in the surrounding area under the supervision of representatives of the Commission. This motion was seconded by Councilman Swicegood.

Mr. Hobbs read from Section 20-10 of the City Code stating that "a permit is not required for the pruning of trees" and asked the City Attorney if there was any need at all for him to be before the City Council asking to prune the trees. If not, he would have the tree company start pruning them.

City Attorney Slawter stated that Section 20-10 had to be read along with Section 20-5 (b) which does require a permit for some types of trimming. He further stated that he could not tell from the information presented whether Section 20-10 or Section 20-5 (b) would apply and could only tell if a plan were presented showing precisely what was to be done to the trees.

Vice-Mayor Ellison moved to allow Mr. Hobbs to trim and prune the four trees as outlined above in his prior motion, if approval by the Council was needed.

At this time (6:20 p.m.), Councilman Swicegood left the meeting.

After some discussion, Vice-Mayor Ellison then moved to continue this matter so as to allow Mr. Hobbs an opportunity to present to the City Attorney a plan for the trimming proposed to be done so that the City Attorney could advise the Council whether a permit would be required under Section 20-5 (b) or whether a permit would not be required under Section 20-10. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Field felt that some portions of the Code might be in conflict and suggested that they be looked at in the future.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 9, 1993 AND THE REGULAR MEETING HELD ON NOVEMBER 16, 1993

B. RESOLUTION NO. 93-186 - RESOLUTION APPOINTING A MEMBER TO THE MINORITY BUSINESS COMMISSION

Summary: Dr. Charles Lawrence, representing the Black Business and Professional League, has resigned as a member on the Minority Business Commission. This resolution will appoint Mr. Clarence Benton to serve the unexpired term of Dr. Lawrence, term to expire August 1, 1994, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 196

C. RESOLUTION NO. 93-187 - RESOLUTION REAPPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary; The term of Charles Penny, as a member of the Metropolitan Sewerage District Board, expires on January 19, 1994. This resolution will reappoint Mr. Penny to an additional three year term, term to expire January 19, 1997, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 197

D. RESOLUTION NO. 93-188 - RESOLUTION ACCEPTING THE DONATION OF A HORSE BY THE NAME OF K.E.W. ORION'S PHANTOM AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO REFLECT THE TERMS OF THE DONATION

Summary: The City desires to continue its mounted law enforcement patrol in the downtown Asheville area. In order to continue its mounted patrol in the downtown Asheville area, the City desires to accept Reverend Sandra Brown's donation of a horse by the name of K.E.W. Orion's Phantom. Reverend Brown has requested that the City enter into an agreement with her that will require the City to offer her first refusal to K.E.W. Orion's Phantom should the City ever cease to need K.E.W. Orion's Phantom for City purposes.

RESOLUTION BOOK NO. 21 - PAGE 198

E. MOTION SETTING A PUBLIC HEARING ON DECEMBER 14, 1993, TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Vice-Mayor Ellison moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

VI. OTHER BUSINESS:

A. MOTION TO SET PUBLIC HEARING REGARDING OAKLEY BALLFIELD PROPERTY

Vice-Mayor Ellison moved to set a public hearing for December 21, 1993, to take public comments regarding the granting of a security interest in the Oakley ballfield property to the Buncombe County Board of Education. This motion was seconded by Councilman Moore and carried unanimously.

B. LENI SITNICK - COUNCIL MEETING TIME AND DATE

Ms. Leni Sitnick once again urged Council to work with the Buncombe County Commissioners so that Council and Commission meetings do not fall on the same days at the same time.

C. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of November 15-19, 1993: Bill Blanchard (Water), Mary Delores Pulley (Sanitation), Martha Glenn (Water), Thomas Carpenter (Water), and Kenneth Gene Davis (Water).

He said that the following claims were received by the City during the week of November 22-26, 1993: Lucille Lipe (Water) and Lucretia Finlay (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

D. COMMENTS BY VICE-MAYOR ELLISON

Vice-Mayor Ellison expressed his appreciation to the citizens of Asheville for allowing him to serve for four years. He said that despite all the times of disagreement, the results achieved by this Council were outstanding.

E. COMMENTS BY COUNCILMAN WORLEY

Councilman Worley read a statement giving advice to the new Council members and stated his pleasure in serving the citizens of Asheville for the last two years. He said he thoroughly enjoyed working with each member of Council and will continue to be actively involved with the City, especially through his service on the Asheville-Buncombe Water Authority.

F. COMMENTS BY COUNCILMAN PETERSON

Councilman Peterson commented that it was his pleasure to serve with the Council for the past two years and wished each of the outgoing members the best of luck.

G. COMMENTS BY MAYOR MICHALOVE

Mayor Michalove stated that he enjoyed his time serving the citizens of Asheville and expressed his appreciation to the other members of Council and City staff.

VII. ADJOURNMENT:

Mayor Michalove adjourned the meeting at 6:40 p.m.

William S. Malcolm Jr.
CITY CLERK

W. M. Michalove
MAYOR

Tuesday - December 7, 1993 - 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor-elect Russ Martin welcomed everyone to the organizational session and introduced Reverend O.T. Tomes, Mt. Olive Baptist Church, who gave the invocation.

The Honorable Robert Orr, North Carolina Court of Appeals Judge, administered the Oath of Office to the following:

Mayor Russell M. Martin
Councilwoman Barbara Field
Councilman Gary McClure
Councilman Chris J. Peterson
Councilwoman Leni Sitnick
Councilman Joseph Carr Swicegood
Councilman Herbert J. Watts

Councilwoman Field moved to recess the Council meeting for approximately 20 minutes and reconvene at the Asheville Civic Center in the Banquet Room. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION NO. 93-178 - RESOLUTION OF APPRECIATION FOR MAYOR KENNETH M. MICHALOVE

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Watts, Resolution No. 93-178 was unanimously adopted.

Mayor Martin presented Mr. Michalove with the resolution, a plaque and his name plate.

Mr. Michalove thanked the City Council and City staff for their help over the years. He then spoke in support of City Manager Doug Bean. He stated reasons why he felt that Mr. Bean was a professional City Manager. He recommended that the Council have the opportunity to tell Doug what they want and if he doesn't respond within a reasonable period of time (3-6 months), then make their decision regarding his continued employment as City Manager.

RESOLUTION BOOK NO. 21 - PAGE 184

RESOLUTION NO. 93-179 - RESOLUTION OF APPRECIATION FOR VICE-MAYOR EUGENE W. ELLISON

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilman Peterson, Resolution No. 93-179 was unanimously adopted.

Mayor Martin presented Mr. Ellison with the resolution, a plaque and his name plate.

Mr. Ellison spoke about the great responsibility it takes to become a Councilmember. He stated that he enjoyed serving the citizens and that all his decisions were for the best interest of all the citizens of Asheville. He challenged the new Council to think of Asheville's future and to take Asheville forward.

RESOLUTION BOOK NO. 21 - PAGE 185

RESOLUTION NO. 93-180 - RESOLUTION OF APPRECIATION FOR COUNCILMAN WILLIAM G. MOORE

Mayor Martin read the resolution.

Upon motion of Councilwoman Field, seconded by Councilwoman Sitnick, Resolution No. 93-180 was unanimously adopted.

Mayor Martin presented Mr. Moore with the resolution, a plaque and his name plate.

Mr. Moore felt that City officials should answer straightforward questions about legitimate matters of the City.

RESOLUTION BOOK NO. 21 - PAGE 186

RESOLUTION NO. 93-181 - RESOLUTION OF APPRECIATION FOR COUNCILMAN CHARLES R. WORLEY

Mayor Martin read the resolution.

Upon motion of Councilwoman Field seconded by Councilwoman Sitnick, Resolution No. 93-181 was unanimously adopted.

Mayor Martin presented Mr. Worley with the resolution, a plaque and his name plate.

Mr. Worley said that it was great honor to serve as a member of Council over the past two years. He passed on some advice to the new Council by saying that you have to

listen a lot, try and develop all the facts and then make intelligent decisions. He urged them to do what is in the best interest of the City and said that Doug Bean has earned his deep respect and admiration as Asheville's City Manager.

RESOLUTION BOOK NO. 21 - PAGE 187

ELECTION OF VICE-MAYOR

Councilwoman Field nominated Councilwoman Sitnick as Vice-Mayor of the City of Asheville. Mayor Martin seconded that nomination.

Councilman Swicegood nominated Councilman Peterson as Vice-Mayor of the City of Asheville. Councilman Watts seconded that nomination.

Councilwoman Field moved that the nominations be closed. This motion was seconded by Councilman Swicegood and carried unanimously.

On a vote of 4-3, Councilman Peterson was elected as Vice-Mayor, with Councilmen McClure, Peterson, Swicegood and Watts voting for Councilman Peterson and Mayor Martin and Councilwomen Field and Sitnick voting for Councilwoman Sitnick.

Vice-Mayor Peterson stated that he will do the best job he can for the citizens of Asheville.

Mayor Martin announced that a recess would be held for approximately 10 minutes.

REGULAR MEETING:

INVOCATION

The invocation was given by Mayor Martin.

I. PROCLAMATIONS: None.

II. PUBLIC HEARINGS: None.

III. UNFINISHED BUSINESS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 30, 1993

Councilman Swicegood moved for the adoption of the November 30, 1993, minutes. This motion was seconded by Councilman McClure and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 93-189 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT SEPARATION AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND DOUGLAS O. BEAN

Vice-Mayor Peterson moved to go into executive session for the purpose of discussing a personnel matter. This motion was seconded by Councilman Swicegood and carried unanimously.

After coming out of executive session, Councilman Swicegood moved to adopt a resolution authorizing the Mayor to execute an employment separation agreement by and between the City of Asheville and Douglas O. Bean. This motion was seconded by Vice-Mayor Peterson.

Councilwoman Sitnick stated that Council's job as leaders is to find out facts, take time in which to do that and then base votes on what we know to be the truth. She stated that she would not be responsible for the firing or accepting the resignation of anyone without documentation. She respected Council's opinions but stated that she would not base hers on theirs. She stated that we all want to make Asheville a good City working government. She suggested an independent audit of the City Manager, all the departments and personnel. Then, the Council should take steps to implement the recommendations of that study and conduct a review after 6 months to make sure the process is working. She stated that since we are all in this together, lets find clear and lasting ways to make things better.

Councilman Watts cleared the record by saying that he was not influenced by Vice-Mayor Peterson or Councilman Swicegood. He said that being a City employee for 25 years, he worked under five City Managers, all who contributed a great deal to Asheville. He stated that Doug has been outstanding but he promised the people that he would listen to them and he felt that it would be in the City's best interest to change.

Councilman McClure said that he makes his decisions based on facts as he perceives those facts. He stated, in knowing Doug personally, that he is a fine man and has served the City well. However, during the campaign, change in the City was brought up. He stated that unfortunately a bad situation has gotten worse and has drug a man's career

through the dirt. He felt that it is time for the City to make the change and not subject Doug Bean to any more pressures. He stated that the City will not be dismantled nor will the Council-Manager form of government be changed. He stated that we needed to work together in order for the City to move forward.

Councilwoman Field stated that she was very concerned that the four new members on Council have not had the chance to work with Doug Bean, one of the finest persons she has ever met. She stated that during the campaign trail, not a single person ran on the platform to change the City Manager nor were they elected to change the City Manager. She was committed to listening to the community and to do what is best for Asheville. She totally supported Doug Bean and would not accept his resignation.

Councilman Swicegood stated that he was elected to do what he felt was right for Asheville. After listening to the people for two years he felt he was doing the best for Asheville. He said that since legally it is Doug Bean that is in control of the City, through the Council, that there needed to be a change made and he wanted the people to realize there was not a conspiracy on his part against Doug Bean. He felt like a change would be good for Asheville.

Mayor Martin said that he served as a Councilman two years ago and has found Doug Bean to be competent, well-meaning, in control of the situation and a very hard working man. He said that Doug is recognized by his peers as far above average in the function of his job. He said that it is detrimental to the well-being of our city for a new council, with people who have not previously served on council, to be thrown into this without a competent City Manager. He read a letter from David E. Reynolds, Executive Director of the North Carolina League of Municipalities, which praised Doug Bean's management skills and reputation. He urged Council to give Doug Bean a chance to work with this Council. He questioned how the new Councilmembers could come up with a logical and valid reason for saying that Doug Bean was not doing a good job.

The following persons spoke supporting change of the City Manager:

Jerry Hobbs - Old Toll Road
Bill Fishburne
Lewis Green - Editor of the Independent Torch
Hayes Martin - North Asheville resident
Sherry Morrow - Asheville resident
Carroll Williams - City Water Department employee

The following persons spoke in support of City Manager Doug Bean:

Charlotte Tell - West Asheville resident
Bob Douglas - Stratford Road
John Legerton - Kenilworth resident
Hazel Fobes - Asheville resident
Pat Whalen - Glen Falls Road
Richard Wood - Former Mayor
Jim France - Vice-President & General Manager of Grove Park Inn
Jane LaFerla - North Asheville resident
Mike Lewis - 48 Gracelyn Road
Steve Buey - Horizon Hill Road
Joe Adams - North Asheville resident
George Groome - 58 Robinhood Road
Carolyn Wallace - Asheville resident
Jimmie Lockman - 120 Norwood Avenue
Barry Olen - Kenilworth resident and owner of downtown business

The following persons spoke as to the process of this issue:

Mike Faulkner - Owner of downtown business
Jim Skalski - Kenilworth resident
Laurie Masterton - North Asheville resident and owner of downtown business
Ernie Thurston - Former Montford resident
Max Haner - Asheville resident
Wally Bowen - Kenilworth resident
John Redmond - Asheville resident
Gene Ochsenreiter - Letter read by Ken Michalove
Ken Michalove - Stratford Road
Minnie Jones

Various comments were expressed by:

Kim McGuire - Norwood Park
Joe Adams - North Asheville resident
Joe Pless - South Asheville resident
Jesse Ray - Asheville resident

Councilman Peterson stated he previously discussed management style concerns with Doug Bean and felt that affluent neighborhoods were getting special attention. His concern was that the City's money was not spread out evenly throughout Asheville.

Councilman Swicegood reiterated his prior motion to adopt a resolution authorizing the Mayor to execute an

employment separation agreement by and between the City of Asheville and Douglas O. Bean. This motion was seconded by Vice-Mayor Peterson. On a voice vote of 4-3, Resolution No. 93-189 was adopted, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

City Manager Bean read his letter of resignation effective December 31, 1993, as City Manager of the City of Asheville. He summarized several specific achievements. He summed his comments by thanking past City Councils for their leadership, and the most professional and dedicated public employees with whom he has had the pleasure to serve for their commitment. He also expressed gratitude to his family, especially Karen, for her steadfast support.

Councilman Swicegood moved to accept the resignation of Douglas O. Bean as City Manager of the City of Asheville effective December 31, 1993. This motion was seconded by Vice-Mayor Peterson and carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

Councilwoman Sitnick stated that it is important to keep in mind that we all care about Asheville and want to do what is right for Asheville. All citizens need to maintain their guard, stay involved and demand answers to questions. She was still uncertain as to the charges against Doug Bean and if they warranted this type of action.

Councilwoman Field stated she too had not seen any charges against Doug Bean.

Mayor Martin stated that Doug Bean should be proud of what he has done for Asheville in the last seven years and will be sorely missed.

The motion accepting Douglas O. Bean's resignation effective on December 31, 1993, carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

Mayor Martin called for a five minute recess.

At this time, Councilman Watts left the meeting unexcused.

B. FINAL PLAT APPROVAL FOR WEST PARK SUBDIVISION

Mr. Gerald Green, Senior Planner, said that FFC Limited Partnership has submitted a plat for the subdivision of lot 1 of West Park Subdivision, located on Smoky Park Highway adjacent to the Holiday Inn. The plat shows the division of the 2.5 acre lot into two lots. The two lots will be 1.2

acres and 1.3 acres. Access to the lots will be provided by Spartan Drive, a new city street constructed as part of the development of West Park Subdivision. The Asheville Planning and Zoning Commission reviewed the preliminary plat on December 1, 1993 and approved it. The final plat meets all requirements established by the Subdivision Regulations and other regulations of the City of Asheville. City Council acceptance of the final plat is requested.

Councilwoman Field moved to approve the final plat of West Park Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

C. MOTION TO SET PUBLIC HEARING TO REZONE 840 EMMA ROAD

Councilman Swicegood moved to set a public hearing on December 21, 1993, to rezone 840 Emma Road from R-2 Residential District to NC Neighborhood Commercial District. This motion was seconded by Councilwoman Field and carried unanimously.

D. MOTION TO SET PUBLIC HEARING FOR A VARIANCE REQUEST FOR NORBURN PARK SUBDIVISION

Councilman Swicegood moved to set a public hearing on December 21, 1993, relative to a variance request for Norburn Park Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

E. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on December 1, 1993:

GROCE UNITED METHODIST CHURCH

Mr. Green said that the Groce United Methodist Church is proposing the addition of new fellowship hall and classrooms to the existing church located at 954 Tunnel Road. The property is contained within the R-3 residential zoning district and is surrounded by office and single-

family residential uses. The proposed addition meets the minimum requirements of the zoning ordinance, including parking and landscaping.

At their November 15, 1993 meeting, the Board of Adjustment granted a conditional use permit to the church which included a reduction of 15 feet in the width of the buffer required between the parking lot and the property line.

At their December 1, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the addition with one condition: (1) the church must obtain approval for availability of services from the Water Authority and Metropolitan Sewerage District.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

FIRST BAPTIST CHURCH

Mr. Green said that the First Baptist Church is proposing an addition and a renovation of the day care facilities located at the church at Five Oak Street. The improvements will include a 25,500 sq. ft. renovation and a three-story 16,000 sq. ft. addition. The property and all surrounding lots are zoned CBD. The proposal meets the minimum requirements of the Zoning Ordinance and is in compliance with the Downtown Design Review Guidelines.

At their December 1, 1993 meeting, the Planning and Zoning Commission voted to recommend approval of the addition/renovation with one condition: (1) The church must obtain approval for the availability of services from all utilities and the Fire Department.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

MALVERN HILLS COMMONS

Mr. Green said that the property for the proposed Malvern Hills Commons is located off of Smoky Park Highway across from the Asheville School in the city's extraterritorial jurisdiction. The property is bordered on the north and northwest by Old Haywood Rd. The proposal is to develop approximately 19 acres of the 32.53 acre site for a 70,500 square foot shopping center. Access to the shopping

center would be provided by the creation of a new street which would bisect the property and run between Smoky Park Highway and Old Haywood Road. To facilitate access from Smoky Park Highway, a bridge will be widened at the developers expense. The site's terrain varies from gently sloping to relatively steep. The site is zoned Commercial Service (CS) and the adjacent zoning is Commercial Service (CS) to the east and south and R-3 elsewhere. The remainder of the site will be developed in the future and will go through the Group Development and/or Subdivision process at that time.

It appears that the project does meet the city's requirements for Group Developments although a detailed landscape plan still must be submitted and approved. At their December 1, 1993, meeting, the Asheville Planning and Zoning Commission voted 4-3 to recommend approval of Malvern Hills Commons with the following conditions:

1. Approval from NCDOT must be obtained for the driveways, and for the bridge widening.

2. Approval from Southern Railroad for driveway construction and grading in the railroad right-of-way.

3. Submittal of a detailed landscape plan.

4. That approvals be obtained for fire protection and water availability.

Notifications were sent to surrounding property owners. Approximately 68 individuals called the Planning Department requesting additional information about the project. At the Planning and Zoning Commission meeting, several individuals expressed concern about the future development of the remainder of the site.

Mr. Green answered various questions from members of Council relative to tabling the action or setting a public hearing.

Mr. Kenneth Panko, Panko Engineering, told Council about the difficulties encountered on this project. He urged Council to approve this project.

Councilwoman Field moved to set a public hearing on this issue on January 11, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

V. CONSENT: None

VI. OTHER BUSINESS:

A. COMMENTS BY COUNCILWOMAN SITNICK

Councilwoman Sitnick requested Council and staff to look into the possibilities of meeting with the County Commissioners in order to find a way to have our meetings, or at least some of them, not in conjunction with each other.

Vice-Mayor Peterson echoed Councilwoman Sitnick's comments.

B. COMMENTS BY VICE-MAYOR PETERSON

Vice-Mayor Peterson said that he would bring up at another time a motion that the Council, as a whole, set the agenda so that any project the Council wishes can be put on the table.

Mayor Martin said that any member of Council can elect to put something on the agenda at any time. He said that the Mayor presides over the meeting and that's why the Mayor sits down with the City Manager to prepare the agenda. He encouraged all Council members to participate in the agenda scheduling process.

C. COMMENTS BY COUNCILMAN SWICEGOOD

Councilman Swicegood wanted to follow up on taking the Council meetings into the neighborhoods.

D. COMMENTS BY CHRIS JOHANSEN

Mr. Chris Johansen, resident of Asheville, brought to Council's attention three items: (1) a procedural question relative to election of the Vice-Mayor; (2) a procedural question relative to approval of the minutes; and (3) the unexcused absence of Councilman Herb Watts after acceptance of the City Manager's resignation.

City Attorney Slawter addressed the comments of Mr. Johansen.

E. ELECTION RESULTS

Attached hereto and made a part hereof are the abstract of votes for the Mayor and City Council primary on September 21, 1993, and the Mayor and City Council general election on November 2, 1993.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:33 p.m.

William D. Malcott
CITY CLERK

Russell Sargent
MAYOR

MAYOR AND CITY COUNCIL PRIMARY ELCTION – SEPTEMBER 21, 1993

ABSTRACT OF VOTES, CAST AT THE DEMOCRATIC PRIMARY ELECTION, HELD FOR MAYOR AND CITY COUNCILMAN, CITY OF ASHEVILLE SEPTEMBER 21, 1993 IN THE COUNTY OF BUNCOMBE, NORTH CAROLINA AT PLACES APPOINTED BY LAW FOR HOLDING PRIMARY ELECTIONS IN SAID COUNTY.

	FOR MAYOR			FOR CITY COUNCIL												
PRECINCTS 1 THROUGH 22	Bruce R. Cargill	Eugene W. Ellison	Charles Worley	Mike Boyd	Bill Branyon	Daniel Miles Breen	Chuck Clontinger	J. Howard Collins	Barbara Field	Edward C. Hay, Jr.	Ron Lambe	Chris J. Peterson	Leni Sitnick	Herbert J. Watts	Dee Williams	
	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	
ASHEVILLE #1	9	181	33	32	30	23	61	35	120	72	57	132	103	171	126	
ASHEVILLE #2	9	325	116	61	62	37	146	57	224	193	151	210	245	319	259	
ASHEVILLE #3	7	185	101	70	51	34	133	65	183	138	100	138	151	201	143	
ASHEVILLE #4	10	170	353	119	108	32	369	123	400	411	267	244	352	209	119	
ASHEVILLE #5	8	134	355	106	81	30	330	129	346	346	172	232	279	211	92	
ASHEVILLE #6	11	156	199	148	93	40	261	117	233	219	114	234	175	162	109	
ASHEVILLE #7	13	155	189	69	57	25	175	42	243	209	187	181	224	189	146	
ASHEVILLE #8	4	315	57	62	38	30	112	58	153	97	53	214	119	300	223	
ASHEVILLE #9	9	82	98	64	58	27	103	50	116	87	62	114	91	78	67	
ASHEVILLE #10	8	274	15	35	27	14	63	38	102	58	42	140	125	252	212	
ASHEVILLE #11	3	142	19	35	17	19	37	21	68	37	26	67	65	130	113	
ASHEVILLE #12	6	44	66	49	36	14	69	42	65	52	40	84	64	54	45	
ASHEVILLE #13	8	59	86	60	45	28	85	60	86	70	53	88	70	73	46	
ASHEVILLE #14	4	92	102	81	39	31	92	61	110	71	71	109	79	112	85	
ASHEVILLE #15	10	110	305	193	86	44	266	164	260	243	170	283	192	228	110	
ASHEVILLE #16	8	82	172	125	78	35	153	105	130	117	87	175	108	106	80	
ASHEVILLE #17	4	97	198	61	48	20	219	66	226	230	148	139	209	108	65	
ASHEVILLE #18	3	33	92	39	25	10	94	36	96	84	41	63	56	37	31	
ASHEVILLE #19	1	63	93	48	30	14	101	41	107	96	55	94	81	69	44	
ASHEVILLE #20	4	49	42	23	22	8	48	17	55	52	43	46	50	55	25	
ASHEVILLE #21	7	90	128	87	48	26	133	54	149	116	85	122	132	107	80	
ASHEVILLE #22	7	85	204	79	58	22	191	113	198	220	127	140	167	122	84	
ASHEVILLE #23	1	23	38	20	13	9	43	18	35	28	19	39	31	21	10	
ABSENTEES	1	16	50	13	12	9	49	22	47	44	25	32	43	23	14	
ELECTION DAY TRANSFERS	0	29	26	8	9	7	27	6	30	30	22	27	33	33	16	
TOTALS	155	2991	3137	1687	1171	592	3360	1540	3782	3320	2217	3347	3244	3370	2334	

MAYOR AND CITY COUNCIL PRIMARY ELECTION - NOVEMBER 2, 1993

ABSTRACT OF VOTES, CAST AT THE GENERAL PRIMARY ELECTION, HELD FOR MAYOR AND CITY COUNCILMEN, CITY OF ASHEVILLE, NOVEMBER 2, 1993 IN THE COUNTY OF BUNCOMBE, NORTH CAROLINA AT PLACES APPOINTED BY LAW FOR HOLDING PRIMARY ELECTIONS IN SAID COUNTY.

	FOR MAYOR		FOR CITY COUNCIL												
PRECINTCS 1 thru 23	(D) CHARLES WORLEY	(R) RUSS MARTIN	(D) CHUCK CLONINGER	(D) BARBARA FIELD	(D) EDWARD C HAY, JR.	(D) CHRIS J PETERSON	(D) LENI SITNICK	(D) HERBERT WATTS	(R) ANN CROSS	(R) GARY "ROCK" McCLURE	(R) CARR SWICEGOOD	Mickey Mouse	Stan Young	Russ Limbaugh	Dexter Sawicki
ASHEVILLE #1	137	115	165	190	158	220	228	234	81	76	116				
ASHEVILLE #2	267	201	328	372	353	369	453	451	106	114	152				
ASHEVILLE #3	221	214	281	320	300	351	377	367	174	176	186				
ASHEVILLE #4	483	716	698	745	766	723	832	757	539	632	612	1	1	1	1
ASHEVILLE #5	452	695	614	694	653	662	745	678	625	734	659				
ASHEVILLE #6	405	591	513	508	433	722	659	664	647	642	710				
ASHEVILLE #7	242	384	375	416	400	431	499	445	241	254	318				
ASHEVILLE #8	247	289	244	280	251	408	421	451	253	248	351				
ASHEVILLE #9	196	261	193	234	187	332	336	297	295	285	319				
ASHEVILLE #10	170	119	209	234	194	264	281	308	70	74	108				
ASHEVILLE #11	108	65	119	124	112	147	156	171	25	27	48				
ASHEVILLE #12	124	132	127	119	117	193	188	174	152	157	175				
ASHEVILLE #13	171	105	159	169	148	211	199	198	164	136	163				
ASHEVILLE #14	177	199	164	185	160	276	271	274	238	237	259				
ASHEVILLE #15	420	483	455	449	415	665	541	561	633	613	666				
ASHEVILLE #16	282	338	246	300	239	462	422	379	419	400	470				
ASHEVILLE #17	263	411	409	428	422	412	472	402	326	375	359				
ASHEVILLE #18	180	342	222	265	250	283	336	277	353	357	354				
ASHEVILLE #19	198	416	266	289	237	397	370	342	439	442	467				
ASHEVILLE #20	63	119	107	115	108	130	137	127	92	89	103				
ASHEVILLE #21	140	330	270	287	253	364	372	325	319	308	339				
ASHEVILLE #22	253	390	331	356	349	422	419	401	373	417	429				
ASHEVILLE #23	57	112	68	72	61	102	92	87	116	115	124				
ABSENTEES	75	94	95	99	90	96	89	74	84	97	96				
ELECTION DAY TRANSFERS	31	38	40	41	39	53	52	44	36	38	38				
TOTALS	5412	7159	6748	7291	6695	8695	8997	8488	6797	7043	7661	1	1	1	1

Monday - December 13, 1993 - 4:00 p.m.

Special Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

Mayor Martin called the meeting to order stating that the sole purpose of the meeting was to discuss the selection of an Interim City Manager. He had received information from the North Carolina League of Municipalities relative to this subject and would share the information with the Council. He felt the Council needed to act quickly and not further divide the community. He stated that the Council will keep everyone informed and hopefully, with the input of citizens and Council, will come up with some good leads.

Councilman Swicegood said that he felt it was very important to move as quickly as possible and to get a qualified person for Interim City Manager for the next six months.

Councilman McClure passed out information obtained from the Institute of Government outlining steps to follow in the hiring of a city manager.

Councilwoman Sitnick said that, according to the City's Charter, Council needed to designate a qualified person to exercise the powers and perform the duties of the manager. She would look for various qualifications, such as a degree in administration or business management. She felt the Council might want to review resumes, examine work experience records, obtain references, and go through an extensive interview process.

Councilman Watts was concerned with getting an interim city manager as quickly as possible and then go from there.

Upon inquiry of Councilwoman Sitnick, City Attorney Slawter said that Council can receive public comment at this time if they choose.

Councilman Swicegood said that since this meeting was only for the purpose of discussing the hiring an Interim City Manager for the next six months, public comment should be delayed.

Vice-Mayor Peterson said that he had some names to share with the Council and since City Attorney Slawter advised the Council not to mention names specifically in open session, he moved to go into executive session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

After coming out of executive session, the Mayor announced that the City Council would be contacting seven individuals for the purpose of scheduling interviews for the position of Interim City Manager.

Councilwoman Field then moved to recess the special meeting until 2:00 p.m. on Wednesday, December 15, 1993, to begin the interviews for Interim City Manager. This motion was seconded by Councilman Swicegood and carried unanimous[illegible]

Mayor Martin recessed the meeting at 5:15 p.m.

Susan S. Holcatt, CMC
CITY CLERK

MAYOR

Tuesday - December 14, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF DeANNA McCARSON, FAYE HARPER AND SHARON McDONALD

City Manager Bean thanked DeAnna McCarson, City's Loan Executive to the United Way, Faye Harper and Sharon McDonald, Coordinators for the City's United Way Campaign, for all the hard work they put into the program this year. With their help and the help of all department coordinators, and all City staff, the City of Asheville was the 6th highest giver to the Campaign.

Mr. George Pfeiffer, President and CEO of the United Way, spoke about the huge success of this year's program and thanked the City of Asheville for their support.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Mayor Martin opened the public hearing at 4:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter explained that TCI had until November 15, 1993, to file its rate schedule for basic service tier with the City of Asheville. On November 17, 1993, the City received a memorandum from TCI that it has

requested an extension of time from the FCC within which to file the rate schedule with the City. According to the memorandum from TCI, that extension of time expired December 1, 1993. The City has 30 days after receipt of the rate schedule to either approve, disapprove, or determine that additional time is necessary to review the rate schedule. If the City determines that more time is necessary to review the rate schedule, it may extend the time for that decision by a period of 90 days.

On November 30, 1993, the City Council took action to set a public hearing on this matter today. In that we have not received a rate schedule from TCI, other than what was submitted to the City of Asheville on November 17, 1993, it is recommended that the City Council continue the public hearing until January 11, 1994.

A representative of TCI Cablevision of Asheville said that the information requested is being processed in the corporate office.

Mr. Chris Johansen, a City resident, requested that the public hearing not be closed until the public has had an opportunity to review the rate schedule.

Councilwoman Field moved to continue the public hearing until January 11, 1993, without further advertisement. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Field moved to publish the rate schedule in the CityWorks as soon as it is received, or at least the Friday before the January 11, 1994, meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

City Manager Bean responded to an inquiry of Councilman Swicegood about an audit of TCI Cablevision.

III. UNFINISHED BUSINESS:

A. AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 22 OLIVE STREET

At the request of Assistant Director of Building Safety Jeff Trantham, Councilwoman Field moved to table action in order to give staff more time to work with the Housing Authority to provide adequate housing to the individual presently living in the structure. This motion was seconded by Councilman Watts and carried unanimously.

Councilman Swicegood commented on the length of time it is taking the City to help this individual. Mr. Trantham explained the problems the City has encountered and said that on January 11, staff will present the Council with their report on the situation and leave it to the Council for action.

Upon inquiry of Vice-Mayor Peterson, Mr. Trantham said that the individual living in the structure is an heir to the property but has no resources to fix it.

Councilman Watts suggested staff contract his father who lives at the intersection of Walton and Depot Street for assistance.

Upon inquiry of Councilman McClure, Mr. Trantham explained the long drawn-out process involved in demolitions.

At the request of Councilwoman Sitnick, Mr. Trantham explained that it would take approximately 3-4 weeks after Council adopted the demolition ordinance in order to actually demolish the structure.

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL OF HOMEWAY SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that Gus Barlas is seeking final plat approval of a subdivision to be located in West Asheville along Homeway Road. While a small portion of the property is located within the City, most of the property and all of a proposed street is located in the extra-territorial jurisdiction. The four acre property is to be subdivided into six lots. In order to provide access to three of the lots, the developer must extend Appalachian Way within its existing platted right-of-way. This will entail a 275-foot extension of Appalachian Way to be constructed to DOT standards.

The final plat of Homeway Subdivision meets the minimum requirements of the zoning ordinance and subdivision regulations.

At their June 2, 1993, meeting, the Planning and Zoning Commission approved the preliminary plat of Homeway Subdivision with a number of conditions which have since been met by the developers.

At Council's meeting on August 17, 1993, a variance was granted in order to permit the proposed road to have a right-of-way width of 45 feet, rather than 50 feet as required by the subdivision regulations.

Vice-Mayor Peterson moved for the approval of the final plat of Homeway Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. FINAL PLAT APPROVAL OF SOUTH ASHEVILLE CINEMAS SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that South Asheville Cinemas, Inc., is seeking final plat approval of South Asheville Cinemas Subdivision located on Hendersonville Road. The 12 acre property is to be subdivided into three tracts (one at 10.5 acres, one at 1 acre, and the other at .5 acre). The existing cinema occupies the larger tract, while the two smaller tracts will be outlots. Two other outlots were previously subdivided and were exempt from the formal subdivision review process. The site is contained within the Commercial Highway Zoning District and is surrounded by office, retail, and multi-family residential uses. The final plat meets the minimum requirements of the Zoning Ordinance and Subdivision Regulations.

At their December 2, 1993, meeting, the Planning and Zoning Commission approved the preliminary plat of South Asheville Cinemas subdivision with one condition, i.e., approval for availability of services must be obtained from the Water Authority and Metropolitan Sewerage District.

Upon inquiry of Councilwoman Sitnick, Mr. Nicholson said that no development plans have been received to show what is proposed. She stated concern about the area adding to the existing stormwater problem.

In response to Councilman McClure's questions, Planning Director Julia Cogburn said that the City Council will be dealing with the stormwater ordinance on January 25, 1994.

Councilwoman Field moved for the approval of the final plat of South Asheville Cinemas Subdivision. This motion was seconded by Councilman McClure and carried unanimously.

C. REPORT ON PHASE II OF THE WATER MASTER PLAN

Mayor Martin said that he and others have met in early December with CDM to see if they could expect CDM to speed

up their recommendations from the end of 1994 to July 1, 1994. He stated specific reasons for his request and has asked Gene Rainey, Chairman of the Buncombe County Commissioners, Ernest Ferguson, Chairman of the Asheville-Buncombe Water Authority and now asking City Council to have a joint meeting in January with our consultant to get a full understanding of the process we need to go through to get a final recommendation. He said that it was his goal to do this within the next 6 months and urged cooperation from everyone involved.

Councilman Swicegood commended Mayor Martin for speeding up the process. He felt it was very important for the community to plan and continue to grow.

Vice-Mayor Peterson, speaking as a new member on the Water Authority, also commended the Mayor on taking the lead to get the groups together and find the best way to correct the situation.

Councilwoman Sitnick (and member of the Water Efficiency Task Force) specifically commended the Task Force for their efforts because what they are doing has long term cost savings to the City. She asked Council and the Water Authority to support and encourage the Task Force for the work they have done and they continue to do.

Upon inquiry of Councilwoman Sitnick, Water Resources Director Mike Holcombe briefed the Council on specific questions relating to the $26 million bond. Some questions were - what has happened to the $26 million from the bond, was the $3 million appropriate for repair sufficient, how that money has been appropriated, what has been accomplished and has the Fix It First Campaign been a success.

Councilman McClure inquired about the ongoing leak repair program and Mr. Holcombe responded.

Mayor Martin asked the City Manager to arrange a meeting in January with the Buncombe County Commissioners, the Asheville-Buncombe Water Authority and the City Council and to advise them of our goals.

D. ORDINANCE AMENDMENT RELATIVE TO THE REGULATION OF TREES

Mr. Ray Kisiah, Director of Parks and Recreation, said that Chapter 20 of the Code of Ordinances includes certain regulations regarding trees. Some of those regulations are enforced by the Director of Public Works and some are

enforced by the Director of Parks and Recreation. It has been determined that it would be more consistent to have Chapter 20 enforced by the same director.

City Attorney Slawter suggested that the Council delete from their copy of the ordinance the last sentence at the bottom of the first page which reads "Any owner who shall fail or refuse to pay such expense shall be guilty of a misdemeanor."

Councilwoman Sitnick questioned if the Tree/Greenway Commission reviewed this change. Mr. Kisiah said that they had not because the problem was simply due to the recodification of the City Code.

Councilwoman Sitnick moved to table this matter in order to give the Tree/Greenway Commission an opportunity to review and comment. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

V. CONSENT:

A. RESOLUTION NO. 93-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXCHANGE WITH THE BUNCOMBE COUNTY FIREFIGHTERS ASSOCIATION ONE SURPLUS TRUCK FOR ONE TRAILER

Summary: In the early 1980's, the Buncombe County Firefighters Association (BCFA) purchased a mobile air compressor for delivery of compressed breathing air to its membering departments. This compressor was mounted on a two-axle trailer after it was delivered. The Skyland Fire Department agreed to take responsibility for maintaining the compressor and trailer, and for delivering compressed breathing air.

In 1987, the Asheville Fire Department assumed responsibility for the trailer and compressor from Skyland. Asheville Fire personnel learned that the trailer was cumbersome and difficult to tow (due to the weight of the compressor), so when the Asheville Police Department declared one of its "paddy wagons" surplus, firefighters converted that surplus paddy wagon for mounting and transportation of the compressor.

Asheville is now turning the compressor over to the Weaverville Fire Department for maintenance and operation. Rather than removing the compressor from Asheville's surplus truck and remounting it on the original trailer, all parties agree that an exchange of Asheville's truck for the Association's trailer is the best solution. BCFA agreed to this exchange at its November 1993 meeting.

RESOLUTION BOOK NO. 21 - PAGE 204

B. RESOLUTION NO. 93-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENCROACHMENT AGREEMENT WITH ROSELIN JUDITH WILLIAMS

Summary: Mrs. Roselin Judith Williams who owns property at 17 Pine Burr Road has encroached upon the right-of-way of Rosemary Road with a one story frame residential structure. This encroachment has existed for a period of approximately 20 years and has caused no problems for the City of Asheville or the property owner. The encroachment agreement will allow the residential structure to remain upon the right-of-way of Rosemary Road until such time that the residential structure is removed or destroyed.

RESOLUTION BOOK NO. 21 - PAGE 206

C. MOTION TO SET A PUBLIC HEARING ON JANUARY 11, 1994, TO CONSOLIDATE WORTHWOODS PARK AND WORTHWOODS ROAD INTO ONE AND CHANGE THAT NAME TO DOGWOOD COURT

Councilwoman Field moved to approve the consent agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY MAYOR MARTIN

Mayor Martin spoke briefly about the discontent in our community over the last several weeks. He stated that the City needed some harmony. He felt that since the Council has been elected to represent the total community, they would and he was certain they would work well together for the community.

B. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of November 29 - December 3, 1993: Charlie Crouch (Water), Richard Charlton, et al. (Police), Payl Statsky (Water), Gene Ducker (Water), Susan Crosby (Water), Diane Aldridge (Water), and Leslie Garrison (Parking Services).

He also said that the following claims were received by the City during the week of December 6-10, 1993: Martha

Brown (Water), Wanda Hightower (Water), WNC Baptist Home (Water), Clarence Griffin (Water), Southern Bell (Water), Henry Berry (Water), Ken Messer (Streets), Vicki Ogle (Water), Stacy Plemmons (Water) and Sherrill Knight (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:00 p.m.

CITY CLERK

MAYOR

Wednesday - December 15, 1993-3:00 p.m.

Continuation of Special Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; and Deputy City Clerk Magdalen Burleson

Absent: None

Mayor Martin called the meeting to order stating that the sole purpose of the meeting was to interview candidates for the position of Interim City Manager. He stated that this is a continuation of the meeting started on Monday, December 13, 1993.

Councilwoman Field moved to go into executive session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

After coming out of executive session, Vice-Mayor Peterson moved to continue this special meeting until Thursday, December 16, 1993, at 4:00 p.m. This motion was seconded by Councilwoman Field and carried unanimously.

CITY CLERK

MAYOR

Thursday - December 16, 1993 - 4:00 p.m.

Continuation of Special Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; and Deputy City Clerk Magdalen Burleson

Absent: None

Mayor Martin called the meeting to order stating that the sole purpose of the meeting was to interview a candidate for the position of Interim City Manager. He stated that this is a continuation of the meeting started on Monday, December 13, 1993, continued on Wednesday, December 15, 1993.

Councilwoman Field moved to go into executive session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

After coming out of executive session, Councilman McClure moved to continue this special meeting until Friday, December 17, 1993, at 4:30 p.m. This motion was seconded by Councilman Swicegood and carried unanimously.

William F. Slawter, Jr.
CITY CLERK

MAYOR

Friday - December 17, 1993 - 4:30 p.m.

Continuation of Special Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; and Deputy City Clerk Magdalen Burleson

Absent: None

Mayor Martin called the meeting to order stating that the sole purpose of the meeting was to continue discussions relative to the position of Interim City Manager. He stated that this is a continuation of the meeting started on Monday, December 13, 1993, continued on Wednesday, December 15, 1993, and on Thursday, December 16, 1993.

Vice-Mayor Peterson moved to go into executive session. This motion was seconded by Councilman Watts carried unanimously.

After coming out of executive session, Vice-Mayor Peterson moved to adjourn the meeting. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin adjourned the meeting at 6:10 p.m.

CITY CLERK

MAYOR

Tuesday - December 21, 1993 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager Douglas O. Bean; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 840 EMMA ROAD FROM R-2 RESIDENTIAL DISTRICT TO NC NEIGHBORHOOD COMMERCIAL DISTRICT

ORDINANCE NO. 2067 - AN ORDINANCE TO REZONE 840 EMMA ROAD FROM R-2 RESIDENTIAL DISTRICT TO NC NEIGHBORHOOD COMMERCIAL DISTRICT

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said that the Asheville Planning and Zoning Commission on December 1, 1993, reviewed and recommended approval of rezoning 840 Emma Road from R-2 Residential District to NC Neighborhood Commercial District.

This .95 acre site is located at the intersection of Eliada Home, Dryman Mountain and Emma Roads. Currently a grandfathered nonconforming store occupies the site and is zoned R-2 Residential District. The 2010 Plan forecasts the land use for this area as low density residential. The requested zoning change from R-2 Residential District to NC Neighborhood Commercial was seen by both the planning staff and legal staff as not in conformance with the comprehensive plan and potentially illegal spot zoning.

The Planning and Zoning Commission voted 6-1 in favor of rezoning 840 Emma Road.

Upon inquiry of Councilwoman Field relative to the consequences of this being challenged in court as an illegal spot zoning, City Attorney Slawter said that if the court did find it to be an illegal spot zoning, the zoning change would be held to be invalid and it would stay R-2 Residential District.

Mr. Ronald Morgan, owner, presented Council with pictures and a petition containing approximately 455 signatures which "support Mr. Mike Morgan of 'FAST BREAK' in his rezoning request from residential 2 (R2) to neighborhood commercial (NC) at 840 Emma Road." He said that there is an old store at this site which is very dilapidated and also a traffic hazard. He urged Council to support his rezoning request so he can provide a nice neighborhood store which will benefit the entire community.

Ms. Elizabeth Graham, member on the Planning and Zoning Commission, gave reasons why she and the majority of the other Commission members supported the rezoning request.

Mayor Martin closed the public hearing at 4:26 p.m.

Mayor Martin stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2067. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2067 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 109

B. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR NORBURN PARK SUBDIVISION

Mayor Martin opened the public hearing at 4:27 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner said that the Asheville Planning and Zoning Commission on December 1, 1993, reviewed and recommended approval of the preliminary plat upon the granting of a variance to permit a reduced street right-of-way.

Norburn Park is proposed as a 68-lot subdivision combining single-family and multi-family residential units. The development will be located on Valley Springs Road south of and adjacent to the Blue Ridge Parkway. Approximately three acres of the 30 acre site will be preserved as open space. The developers have designed the project to encourage pedestrian activity and to enhance the feel of a neighborhood. As part of this design, the developers are proposing a street right-of-way width of 45 feet, instead of the 50 feet required by the subdivision ordinance, on Norburn Drive, Victoria Lane, Regents Drive and Kensington Crescent in Norburn Park Subdivision. The Planning and Zoning Commission reviewed the request and recommended approval of the variance.

Upon inquiry of Councilman Swicegood, Mr. Green explained the areas which were outside the City's jurisdiction.

Mr. Ken Jackson, project developer, stated that after they take title to the property sometime next spring or summer, they will ask for a voluntary annexation of the portion on the south end which encompasses 21 lots. He said the 25 foot strip in the Town of Biltmore Forest will be a buffer and only landscaped.

When questioned about how the City could guarantee them asking for a voluntary annexation, City Attorney Slawter said that since they are not the owners of the property now, the Council can only rely on Mr. Jackson's word.

Mr. Jackson explained that the project is being governed by four different jurisdictions and it is their wish to have the project maintained by only one government agency. He stated that they would like to have the City take over the road and stressed that they wanted continuity in the project.

Councilwoman Field asked Mr. Jackson about the common space area and if it was usable. He explained that it was partially wetlands but could be used by the neighborhood as a park area.

Mr. Scott Melrose, master planner for the project, also answered Council's questions concerning the project.

City Attorney Slawter reminded the Council of the provision in the subdivision ordinance which only allows the granting of variances for certain reasons.

When Councilwoman Field questioned why the developers needed the variance, Mr. Melrose responded that their request was partially for topographical reasons.

Upon inquiry of Councilwoman Sitnick, Mr. Melrose stated that they are making efforts to preserve existing trees and are trying to maintain existing drainage patterns.

Mayor Martin closed the public hearing at 4:47 p.m.

Councilman Swicegood moved to approve the variance request for Norburn Park Subdivision due of topographical concerns and also noted that the variance is only applicable within that portion of the property in the City limits. This motion was seconded by Councilman Watts and carried unanimously.

C. **PUBLIC HEARING RELATIVE TO PURCHASE OF OAKLEY BALLFIELD**

RESOLUTION NO. 93-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INSTALLMENT CONTRACT FOR THE PURCHASE OF PUBLIC PARK PROPERTY ALONG SCHOOL ROAD

Mayor Martin opened the public hearing at 4:48 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that City Council previously agreed, on August 3, 1993, to authorize the City Manager to execute documents for the purchase of property now owned by the Buncombe County Board of Education and formerly designated as a new school site in the Oakley area. This property is to be used as a public park, including, but not limited to, baseball fields which will replace those lost when the Biltmore School property, on Hendersonville Road, was sold. In order to purchase this property, it is necessary to enter into an installment contract that creates in the property purchase a security interest to secure payment of the purchase price to the seller. N. C. Gen. Stat. sec. 160A-20 authorizes execution of such an installment contract and requires a public hearing when the installment contract involves real property.

The Buncombe County Board of Commissioners has agreed to furnish funds to the City of Asheville, over a three year time period, for the purchase of the property and the City of Asheville will furnish funds for the improvements to the

site. The total purchase price is $335,734, with $100,000 paid upon closing before the end of this calendar year and the balance being paid as follows: $100,000 in fiscal year 94/95 and $135,734 in fiscal year 95/96.

City Manager Bean answered questions from Council relative to the property.

Mayor Martin closed the public hearing at 4:56 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 93-192. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 210

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

City Attorney Slawter said that this matter has been continued on several prior occasions in order to await determination of proceedings currently pending in court regarding the house. The current owner of the house, Kenneth Maultsby, has been issued a zoning permit and a building permit authorizing the construction of a house at the site. The neighbors appealed the issuance of those permits to the Board of Adjustment. The Board of Adjustment upheld the issuance of the permits. The neighbors then appealed to Superior Court. We had a hearing in Superior Court on December 13, 1993, but since we have not had the ruling yet from Superior Court, the final reading of the ordinance concerning demolition should be continued.

Vice-Mayor Peterson moved to continue the third and final reading of Ordinance No. 1958 until January 25, 1994, due to a pending decision relative to the lawsuit. This motion was seconded by Councilwoman Field and carried unanimously.

IV. NEW BUSINESS:

A. ORDINANCE NO. 2068 - BUDGET AMENDMENT TO SET UP APPROPRIATIONS FOR CLOSURE AND REMEDIATION OF UNDERGROUND STORAGE TANKS

Director of Risk Management said that this budget amendment, in the amount of $108,960, will set up an appropriation for removal and remediation of contaminated soil from leaking underground storage tanks. He explained that the City has secured an extension from the North Carolina Department of Health and Natural Resources until January 7, 1994, and they will not grant any further extensions relative to the removal of these tanks. He outlined the actions necessary for compliance by the State and explained the procedures involved if certain amounts exceed our $20,000 deductible.

Mr. Miall answered questions from Vice-Mayor Peterson relative to this type work being done at the Transit Authority's garage bays.

City Manager Bean responded to questions about funding for this budget amendment.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilwoman moved for the adoption of Ordinance No. 2068. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2068 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 111

B. ORDINANCE NO. 2069 - BUDGET AMENDMENT TO APPROPRIATE FEDERAL FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT THROUGH THE FAIR HOUSING ASSISTANCE PROGRAM

Planning Director Julia Cogburn said that the City has received funding approval from HUD of $70,000 for the Fair Housing Assistance Program. This will be the 7th year of funding through this program. Grant funds received last year were $65,000. The increase in funding has been designated for capacity building in administering the Fair Housing Program under the new Fair Housing Act. The program is administered under contract by the Asheville-Buncombe Community Relations Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City's Community Development Division serves as Lead Entity and monitors the program.

Upon inquiry of Councilman McClure, Bob Smith, Executive Director of the Asheville-Buncombe Community

Relations Council, explained that the $55,000 for professional services is mostly for outreach, i.e., programs for the City and County to let them know what fair housing is all about and also some mandatory training is involved in professional services.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Watts moved for the adoption of Ordinance No. 2069. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2069 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 113

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE ORGANIZATION MEETING AND THE REGULAR MEETING HELD ON DECEMBER 7, 1993; THE MINUTES OF THE SPECIAL MEETINGS HELD ON DECEMBER 13, 15 and 16, 1993; AND THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 14, 1993

B. RESOLUTION NO. 93-193 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 2400 POUNDS OF SPENT BRASS AMMUNITION CASES BY SEALED BID

Summary: Disposal of approximately 2400 pounds of spent brass ammunition cases for the Asheville Police Department. Estimated revenue of $6,700.

RESOLUTION BOOK NO. 21 - PAGE 211

C. RESOLUTION NO. 93-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL FOR THE FAIR HOUSING ASSISTANCE PROGRAM

Summary: The City has received funding approval of $70,000 for the Fair Housing Assistance Program. The program is administered by the Asheville-Buncombe Community Relations Council under contract with the City. This will be the 7th year of funding under this program.

RESOLUTION BOOK NO. 21 - PAGE 212

D. RESOLUTION NO. 93-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND RMT, INC., FOR ENGINEERING SERVICES RELATIVE TO REMOVAL OF UNDERGROUND STORAGE TANKS

Summary: State environmental laws mandate that the City remove certain underground fuel storage tanks on or before July 1, 1994. The requested action will assure the City's minimum compliance by this date.

RESOLUTION BOOK NO. 21 - PAGE 213

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. BILTMORE DAIRY FARMS

Councilwoman Field moved that the Mayor be authorized to execute an agreement with Biltmore Dairy Farms Inc. providing for the contribution by the City of 1/3 of the cost of construction of a sewer outfall line in the area of a Biltmore development east of Interstate 26, west of Overlook Road and north of Long Shoals Road on the following conditions: (1) the City's share not to exceed $185,000; and (2) Biltmore agree to the annexation of the property into the City of Asheville and the reimbursement to the City if annexation is not accomplished with the formula for reimbursement to be included in the agreement in form satisfactory to the City Attorney. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. APPOINTMENT OF INTERIM CITY MANAGER WILLIAM B. FARRIS EFFECTIVE JANUARY 1, 1994

Councilwoman Field moved to appoint Charles Penny as Interim City Manager effective January 1, 1994. This motion was seconded by Councilwoman Sitnick.

Councilwoman Sitnick read a statement stating that the Council agreed that they interviewed three fine candidates. She stated that Council listened and gave serious and substantive attention to the brief but intensive selection process and narrowed the candidates to two. She felt that Asheville would be served well by either. She felt that her decision to vote to support Charles Penny was multi-dimensional. She felt that if the other candidate was

chosen, he would not only make an outstanding Interim City Manager but also an outstanding full-time Manager and Asheville would be lucky to have him. She said that the other candidate's resume and interview were impressive, noting his knowledge of budgets, communication skills, sustainable development and environmental sensitivity. However, Charles' resume and interview were also excellent. She felt Charles is well qualified and highly competent. He has received high marks all around and has been unanimously praised for his successful supervision. He has worked on budgets, has worked with personnel and has worked with citizens concerns. He has served Asheville loyally and effectively for seven years. She also stated that her support in Charles involves a cost component. In addition to wanting the most qualified, he would be more cost effective and why not vote for a local person since the City tries to promote and hire from within. In addition, we could help close the gap on minority disparity in our City. Charles will provide our City that is in turmoil with some continuity and will signal this community that this Council is able to restore calm to a troubled and divided Asheville. She felt healing is just as important as the budget and appointing Charles will help greatly in healing process.

Councilman McClure also agreed that Council had two very good candidates. He felt the interview process was fair and thorough. Unfortunately, he felt Council could not afford on the job training. His biggest concern about Charles was that he has not had any budgeting experience and no City Manager experience. He also stated that Charles told him that he did not have an interest in the position of Interim City Manager and would not accept the position under the circumstances. He said that he would not support Mr. Penny as Interim City Manager.

Mayor Martin stated that Mr. Penny did put his name in voluntarily for the Interim City Manager position.

Councilwoman Field nominated Charles Penny because she has worked with him and he is the person people call when they have a problem and he gets the problem solved. She felt he is a fine young man and hiring him would also help with the minority disparity in the City. She felt he could provide the continuity during the next six months and felt he could deal with the budget process even though he has not been personally responsible for presenting the budget to Council. She strongly supported Charles as Interim City Manager.

On a voice vote of 3-4, the motion to appoint Charles Penny as Interim City Manager was defeated, with Mayor

Martin, and Councilwomen Field and Sitnick voting "yes" and Vice-Mayor Peterson and Councilmen McClure, Swicegood and Watts voting "no".

Councilman McClure then moved to appoint William B. Farris as Interim City Manager effective January 1, 1993, for six months. This motion was seconded by Councilman Swicegood and carried on a voice vote of 4-3, with Vice-Mayor Peterson and Councilmen McClure, Swicegood and Watts voting "yes" and Mayor Martin and Councilwomen Field and Sitnick voting "no".

Councilwoman Sitnick moved to instruct Mr. Farris, when he takes the position as Interim City Manager, to retain Charles Penny as Assistant City Manager. City Attorney Slawter advised Councilwoman Sitnick that Council did not have the authority to so instruct the Interim City Manager.

Vice-Mayor Peterson personally encouraged Charles Penny to continue as Assistant City Manager.

Councilwoman Sitnick felt Mr. Farris would do a great job and looked forward to working with him. She felt that just saying Council wanted change was not enough. She felt that Council, as a whole, needs to begin to articulate and define what that change is. She said that we need to begin to understand that there are other things committed to making change and we need to begin to show leadership along those lines.

Mayor Martin also stated that he was impressed with Mr. Farris' credentials and interview and stated that Mr. Farris would certainly have Council's support.

C. RESOLUTION NO. 93-196 - RESOLUTION AUTHORIZING THE ASHEVILLE-BUNCOMBE WATER AUTHORITY TO ACQUIRE A FEE SIMPLE INTEREST IN REAL PROPERTY BY CONDEMNATION

City Manager Bean said that in an effort to ease the effects of the worst drought on record upon the City's water supply reservoirs at North Fork and Bee Tree, the City of Hendersonville was approached about selling the Water Authority finished water. Hendersonville's treatment capacity is 12 mgd; with current demand approximately 7.2 mgd. The agreement provides for up to 4 mgd for an initial six months period.

He said the two water systems are interconnected at the intersection of Christ School Road and Cane Creek Road.

Asheville water pressure is 40 psi higher than that of Hendersonville. A pumping station is necessary to overcome this difference.

Mayor Martin read the resolution.

Councilwoman Field moved to adopt Resolution No. 93-196. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 214

D. BROADWAY WIDENING PROJECT

Councilwoman Sitnick moved to set a public hearing on January 11, 1994, at 7:00 p.m. in the Asheville Civic Center Banquet Room, to discuss the City's position regarding the Broadway Widening Project. This motion was seconded by Vice-Mayor Peterson and carried on a 5-2 vote, with Councilwoman Field and Councilman Swicegood voting "no".

E. COUNCIL MEETING DATES AND TIMES

Councilwoman Sitnick moved to begin the process of looking into the possibility of changing City Council meeting days so that they do not conflict with Buncombe County Commissioner meeting days. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

F. COMMENTS BY MIKE PLEMMONS

Upon inquiry of Mr. Mike Plemmons, representing the Council of Independent Business Owners, Mayor Martin said that Mr. Farris' resume' would be made available to anyone who requested it.

G. COMMENTS BY WAYNE KINSER

Mr. Wayne Kinser asked Mayor Martin to repeat his statement from the close of the December 14, 1993, meeting and suggested that everyone try to work together as the Mayor suggested.

H. COMMENTS BY BETTY DONOHO

Ms. Betty Donoho, representative of the People for Accountability in Government, challenged the people behind the recall effort against Vice-Mayor Peterson and Councilmen McClure, Swicegood and Watts to cease their efforts and said that if they would do so, she would stop her efforts toward the recall of Mayor Martin and Councilwoman Field.

I. COMMENTS BY TOM DONOHO

Mr. Tom Donoho suggested Council look at areas already annexed into the City before they start spending money for sewer lines outside the City.

J. COMMENTS BY SHARON McDONALD

Ms. Sharon McDonald presented City Manager Bean with a scroll on behalf of the employees of the City of Asheville. The scroll is a token of our deep respect and appreciation for all he has done for us as City Manager and with it goes our best wishes and our sincere hope that he always remember the employees of the City of Asheville.

K. CLAIMS

City Manager Bean said that the following claims were received by the City of Asheville during the week of December 13-17, 1993: Rose Whitted (Purchasing), John E. Putnam (Water), Kathleen Wallen (Water) and Ann Riddle (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

L. LAWSUIT

City Manager Bean said that the City was served with the following lawsuit on December 20, 1993: Katherine Taylor and Baxter H. Taylor (Board of Adjustment appeal).

He said that this has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:32 p.m.

CITY CLERK

MAYOR

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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CITY OF ASHEVILLE

MINUTES

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DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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Microfilm Camera Operator

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Tuesday - January 11, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Brison; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: City Attorney William F. Slawter

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-1 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HORACE BOWEN

Mayor Martin read the resolution stating that Horace Bowen has been an employee for 34 years and has requested retirement from his position as Fire Captain. He expressed City Council's appreciation to Horace for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-1. This motion was seconded by Councilman McClure and carried unanimously.

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B. RESOLUTION NO. 94-1 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JOSEPH D. WHITESIDE

Mayor Martin read the resolution stating that Joseph D. Whiteside has been an employee for 25 years and has requested retirement from his position as Fire Apparatus Operator/Drive. He expressed City Council's appreciation to Joseph for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-2. This motion was seconded by Councilwoman Field and carried unanimously.

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C. RESOLUTION NO. 94-3 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ANN GORDON

Mayor Martin read the resolution stating that Ann Gordon has been an employee for 16 years and has requested retirement from her position as Personnel Specialist. He expressed City Council's appreciation to Ann for her service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-3. This motion was seconded by Councilman Watts and carried unanimously.

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D. RESOLUTION NO. 94-4 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE NOLAND INGLE SR.

Mayor Martin read the resolution stating that Noland Ingle Sr. has been an employee for 7 years and has requested retirement from his position as Motor Equipment Operator II. He expressed City Council's appreciation to Noland for his service to the City of Asheville and its citizens.

Councilman McClure moved for the adoption of Resolution No. 94-4. This motion was seconded by Councilwoman Field and carried unanimously.

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E. RECOGNITION AWARD FOR THE ASHEVILLE FIRE DEPARTMENT

Mayor Martin recognized Fire Chief John Rukavina who in turn recognized Pat Hefner, Harley Shuford and Junior Carter. Fire Chief Rukavina said that the Asheville Fire Department has been a leader in the Southeast in development and support of "juvenile fire-setter" programs.

Asheville Fire Investigator (and A-B Arson Task Force Director) Harley Shuford has worked with health care professionals at Park Ridge Hospital who deal with juvenile firesetters. Harley has been assisted by other members of the Asheville Fire Department.

A representative from Park Ridge Hospital Associates read the award plaque recognizing the Asheville Fire Department for "...being friends, teachers and role models to our child and adolescent patients who have need of your specialized services" and presented it to Harley Shuford who accepted the award on behalf of the Asheville Fire Department.

F. PROCLAMATION PROCLAIMING THE WEEK OF JANUARY 10-17, 1994, AS "MARTIN LUTHER KING JR. WEEK"

Mayor Martin proclaimed the week of January 10-17, 1994, as "Martin Luther king Jr. Week" in the City of Asheville.

He presented the proclamation to Ms. Oralene Simmons who gave the Council a brief report on activities taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSOLIDATE WORTHWOODS PARK AND WORTHWOODS ROAD INTO ONE AND CHANGE THAT NAME TO DOGWOOD COURT

RESOLUTION NO. 94-5 - RESOLUTION CHANGING THE NAMES OF WORTHWOODS PARK AND WORTHWOODS ROAD TO DOGWOOD COURT

Mayor Martin opened the public hearing at 4:18 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gary McDaniels, Street Address Administrator, said that the residents of what are now Worthwoods Park and Worthwoods Road located in a subdivision west from Overbrook Road and north of Governor's View Road have requested a change in their street name to Dogwood Court. The name "Dogwood Court" is not duplicated else in Asheville; however, there are two other Dogwood Courts in the County. The 911 Coordinator for Buncombe County indicated no problems with the name change as requested.

However, Section 16-174 (c) of the Code of Ordinances provides: "There shall be no assignment of duplicate street names. Street names should not closely approximate phonetically the name of any street within the county, irrespective of the use of a designation suffix (street, avenue, boulevard, drive, place, court, etc.) or a direction prefix or suffix (north, south, east, west, etc.)."

Fire Chief Rukavina said that his and Police Chief Annarino's concern in changing the name to Dogwood Court is that there are already three "Dogwoods" in Asheville - Dogwood Grove, Dogwood Lane and Dogwood Road. He said that the property owners who proposed this change did so in good faith and though Buncombe County Emergency Management originally opposed this street name change, that opposition has since been withdrawn.

When Councilwoman Field questioned the possible problems with the other two Dogwood Courts in the County, Fire Chief Rukavina said that since one is located in Black Mountain and one in Candler, their geographical distance should not cause a problem.

Mr. Andrew Reed, 26 Dogwood Road in Asheville, briefed the Council on problems he has encountered with there being other "Dogwood" names. He asked Council to deny the request and urged the residents of Worthwoods Road and Worthwoods Park to choose a different name.

Mr. Marvin Shuler, 22 Worthwoods Road, and Mr. Wade Fox, 18 Worthwoods Road, spoke in support of the name change to "Dogwood Court."

Mayor Martin closed the public hearing at 4:32 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-5. This motion was seconded by Councilwoman Field and carried unanimously.

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B. CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

RESOLUTION NO. 94-6 - RESOLUTION EXTENDING THE TIME FOR A DECISION REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Mayor Martin said that this public hearing was opened on December 14, 1993, but since the City had not received the rate schedule from TCI, the Council continued its public hearing until this date.

Assistant City Attorney Brison said that the City received a rate schedule from TCI on December 22, 1993. The City has 30 days after receipt of that rate schedule to either approve or disapprove the rate schedule or determine that additional time is necessary to review the rate schedule. That 30 day period would end on January 21, 1994. Pursuant to the request of Council on December 14, 1993, the rate schedule was published in the Asheville Citizen-Times on December 31, 1993, and January 7, 1994.

Ms. Brison summarized the three options available to Council: (1) approve the rate schedule as submitted; (2) extend the time period for making a decision by up to an additional 90 days which would expire on April 21, 1994; or (3) provide notice to TCI of intent to order refunds. We recommend continuing the public hearing until February 22, 1994, in that there is a deadline of February 28, 1994, for filing a complaint with the FCC regarding cable programming service if the City Council desires to do so.

Mr. Dan Martin, General Manager of TIC Cablevision of Asheville, requested the Council to approve the amended FCC Form 393 rates, which below is an example of an average customer before and after the rate change:

	Before 9/1/93	After 9/1/93	393 "Permitted"
Basic	$10.00	$ 9.77	$ 9.55
Expanded	9.75	11.17	10.91
Copyright	.36	0	0
Add'l Outlet	2.95	0	0
1 Pay	9.95	12.90	12.90
(2) Converter	7.90	2.20	3.70
(2) Remotes	0	.16	.28
Total	$40.91	$36.20	$37.34

He said that the current rates are a reduction of $4.71 or 13% in the average customer's monthly bill. He said many customers with multiple outlets and converters have seen an even larger reduction in their rates. He noted that they will charge more for some items and less for others according to their amended FCC Form 393 rate schedule. Since the information has been computed by their accounting group in Denver, he offered to meet with Council and get them in touch with those individuals in order to explain where the information came from and how it was arrived at.

Mr. Martin answered various questions from Council relating to the delay in turning in the rate schedule and how Asheville's rate compared to cities of similar size.

When Councilwoman Field specifically asked what rate schedule the Council was being asked to approve, Mr. Martin responded that he was asking Council to approve the rates to go from $9.77 to $9.55 for basic, $11.17 to $10.91 for expanded, and so on, as the above schedule shows.

Upon inquiry of Councilwoman Field, Mr. Martin said that he hasn't done the calculations yet to see what effect this latest change of cuts will have on the City's utility tax check.

Vice-Mayor Peterson asked questions as they related to the utility tax checks. Mr. Martin explained that the utility tax check is given to the City twice a year and stated that he would be happy to meet with Vice-Mayor Peterson and explain to him exactly how the figures are calculated.

Councilwoman Field moved to adopt Resolution No. 94-5 which states that the Asheville City Council hereby determines that it is necessary to extend the time period for review of the rate schedule of TCI in order that it may consider the information submitted by TCI and comments from interested parties and that said extension is hereby provided for by continuing the public hearing on this matter until 4:00 p.m. on

February 22, 1994, in the Council Chamber in the City Building. This motion was seconded by Councilman Watts and carried unanimously.

Ms. Brison said the resolution adopted also provides that a notice to the public, including the rate schedule submitted by TCI, be published on the CityWorks page of the Asheville Citizen-Times on February 11 and 18, 1994.

C. **PUBLIC HEARING RELATIVE TO MALVERN HILLS COMMONS**

Mayor Martin opened the public hearing at 4:52 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that the property for the proposed Malvern Hills Commons is located off of Smoky Park Highway across from the Asheville School in the City's extraterritorial jurisdiction. The property is bordered on the north and northwest by Old Haywood Road. The proposal is to develop approximately 19 acres of the 32.53 acre site for a 70,500 square foot shopping center. Access to the shopping center would be provided by the creation of a new street which would bisect the property and run between Smoky Park Highway and Old Haywood Road. To facilitate access from Smoky Park Highway, a bridge will be widened at the developer's expense. The site's terrain varies from gently sloping to relatively steep. The site is zoned Commercial Service and the adjacent zoning is Commercial Service to the east and south and R-3 elsewhere. The remainder of the site will be developed in the future and will go through the group development and/or subdivision process at that time.

It appears that the project does meet the City's requirements for group developments although a detailed landscape plan still must be submitted and approved. At their December 1, 1993, meeting, the Asheville Planning and Zoning Commission voted 4-3 to recommend approval of Malvern Hills Commons with the following conditions:

1. Approval from NCDOT must be obtained for the driveways, and for the bridge widening.

2. Approval from Southern Railroad for driveway construction and grading in the railroad right-of-way.

3. Submittal of a detailed landscape plan.

4. That approvals be obtained for fire protection and water availability.

Notifications were sent to surrounding property owners. Several individuals called the Planning Department requesting additional information about the project. At the Planning and Zoning Commission meeting, several individuals expressed concern about the future development of the remainder of the site.

He said that NC DOT has denied their request to widen the bridge and therefore the conditions imposed by the Planning and Zoning Commission listed as numbers 1 and 2 above are no longer applicable.

Councilwoman Sitnick asked what measures would be provided for stormwater control. Mr. Ken Pankow, engineer for the project, stated that even though the City cannot require the developer to put in any stormwater control measures, they are in fact building a stormwater detention pond.

When questioned by Councilman Watts about plans for future development, Mr. Green stated that the City has not received any information on those plans yet, but they would be coming before the City Council for approval.

Vice-Mayor Peterson asked why they had not submitted a detailed landscape plan. Mr. Pankow responded that they did in fact submit a landscape plan but it was not a plan satisfactory to the City staff. He said that they would be resubmitting a detailed plan.

Upon inquiry of Councilman McClure about water availability, Mr. Pankow responded that they just had gotten their flow test results from the Water Department and water is available.

Mr. Harry Giezentanner, Realtor, urged Council to approve this group development.

Mr. Jim Macgill, resident on Evergreen Avenue, spoke about concerns he had relative to traffic.

When Councilwoman Field asked where the next closest grocery store was, she was told it was approximately 1/4 of a mile.

Mayor Martin closed the public hearing at 5:15 p.m.

Vice-Mayor Peterson moved to approve the site plan for Malvern Hills Commons subject to conditions 3 and 4 above being met and subject to the stormwater detention pond being built. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Sitnick urged the developers to keep open lines of communication with the neighbors in the area which will ultimately benefit everyone involved.

D. **PUBLIC HEARING RELATIVE TO THE BROADWAY WIDENING PROJECT**

Mayor Martin said that this public hearing would be held at the end of the Council meeting.

III. UNFINISHED BUSINESS:

A. **ORDINANCE NO. 2070 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 22 OLIVE STREET**

Mayor Martin said that the public hearing on this matter was held on November 9, 1993. This action has been tabled previously in order to give staff an opportunity to work with the Housing Authority to provide adequate housing to the individual living in the structure.

Mr. Jeff Trantham, Assistant Director of the Building Safety Division, stated that alternative housing (at Klondyke Apartments) has now been found for the occupant, 22 Olive Street is vacant at this time and written consent from Steven D. Allen has been obtained to demolish 22 Olive Street.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2070. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2070 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 115

IV. NEW BUSINESS:

B. **FINAL PLAT APPROVAL FOR JAKS RIDGE SUBDIVISION**

Mr. Gerald Green, Senior Planner, said that Jaks Ridge Subdivision is located off of New Haw Creek Road just south of Maple Drive. The request is to subdivide an approximately 2.6 acre site into three (3) lots (lot 1 @ .8 acre, lot 2 @ .764 acre, and lot 3 @ .749 acre). The site lies within the R-2 residential zoning district. Adjacent zoning is R-2 to the north, south, and west and R-1 to the east. The site slopes moderately upward to the west. The three lots will be accessed by a proposed cul-de-sac (Jaks Ridge Drive) which will be approximately two hundred-fifty (250) feet in length.

The proposed subdivision meets the requirements of the Asheville zoning ordinance and the subdivision regulations. In addition, all utilities and the Fire Department have approved availability of services to the site. At their October 6, 1993, meeting, the Asheville Planning and Zoning Commission approved the preliminary plat of Jaks Ridge Subdivision.

Councilwoman Sitnick moved to approve the final plat of Jaks Ridge Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

B. **ORDINANCE NO. 2071 - AN ORDINANCE SETTING A 45 MPH SPEED LIMIT FOR HENDERSONVILLE ROAD (US 25) FROM SR 3162/SR 3552 (ROYAL PINES ROAD) TO INTERSTATE 40 (I-40))**

Public Works Director Jim Ewing said that the North Carolina Department of Transportation recommended that the speed limit on Hendersonville Road (US 25) from Rock Hill Road to Interstate 40 (I-40) be posted at 45 mph upon completion of the Hendersonville Road Project. The City agrees with this recommendation. The project is nearing completion. Thus, the speed limit needs to be changed.

Mr. J. Loyd Kirk, 866 Hendersonville Road, stated that a speed study by NC DOT was done on December 7, 1993, indicating that from 10:00 a.m. to 3:00 p.m. on December 7, 1993, 46.6% of all northbound vehicles exceeded the 45 mph speed limit and 4.6% of all northbound vehicles exceeded 55 mph. He said that it was clear that his concerns about speeding on Hendersonville Road, expressed during the 1993 hearings on the Hendersonville Road study, were confirmed by this NC DOT speed study. He asked Council to stop the vehicular traffic from speeding on Hendersonville Road before a serious accident injures or kills either a motorist or a pedestrian, or both. He suggested that a speed limit of 35 mph be posted, or at the most 40 mph.

Mayor Martin instructed the City Manager to pass along the information to the Police Chief to see what can be done about the speeding.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Watts moved for the adoption of Ordinance No. 2071. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-1, Ordinance No. 2071 passed on its first reading, with Councilwoman Sitnick voting "no".

ORDINANCE BOOK NO. 14 - PAGE 117

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE SPECIAL MEETING HELD ON DECEMBER 17, 1993, AND THE REGULAR MEETING HELD ON DECEMBER 21, 1993

B. RESOLUTION NO. 94-6 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH BUCKEYE CONSTRUCTION COMPANY INC. FOR THE PROJECT KNOWN AS HAW CREEK ANNEXATION - PHASE II 8-INCH SEWER LINE

Summary: This project involves approximately 8,650 linear feet of 8-inch sanitation sewer pipe and 1,650 linear feet of 4-inch sanitation sewer service pipe and 81 manholes. After receiving the bids, the Director of Engineering recommends awarding this bid to Buckeye Construction Company Inc., as the lowest responsible bidder, in the amount of $426,957.97. See complete bid summary attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 21 - PAGE 222

C. MOTION TO APPROVE THE COMMUNITY DEVELOPMENT BLOCK GRANT PRIORITY RATING SYSTEM FOR FISCAL YEAR 1994

Summary: During February 1994 the City will be receiving applications from agencies desiring to receive CDBG funding for the coming year. The Housing and Community Development Committee has recommended approval of the priority rating system to be used. This system places the highest priority on activities designed to improve or expand the affordable housing stock of the City.

D. RESOLUTION NO. 94-7 - RESOLUTION APPOINTING EUGENE ELLISON TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Summary: Russell Martin has resigned as a member of this Board. This resolution will appoint Eugene Ellison to serve the unexpired term of Mr. Martin, term to expire November 13, 1995, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 223

E. RESOLUTION NO. 94-8 - RESOLUTION APPOINTING CAROL FABREY AND FATHER ANDREW GENTRY TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: The terms of Charlotte Tell and Linda McDaniel expired on December 31, 1993. This resolution will appoint Carol Fabrey and Father Andrew Gentry to serve a three year term, term expiring December 31, 1996, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 224

F. **RESOLUTION NO. 94-9 - RESOLUTION APPOINTING GARY McCLURE, ALAN LEVY, BONNIE HOBBS, BRADY BLACKBURN, CHUCK PICKERING AND CHUCK CLONINGER TO THE ASHEVILLE DOWNTOWN COMMISSION**

Summary: The terms of Charles Worley, Michael Linney, M. Charles Cloninger, Bonnie Hobbs, Brady Blackburn and Chuck Pickering expired on December 31, 1993. This resolution will (1) appoint Gary McClure to serve a term according to the length of his Council term of office, (2) reappoint M. Charles Cloninger to serve a term according to the length of his office as President of the Downtown Association, or until his successor has been duly appointed and qualified; (3) appoint Alan Levy to serve a two year term, or until his successor has been duly appointed and qualified and (4) reappoint Bonnie Hobbs, Brady Blackburn, and Chuck Pickering to serve two year terms respectively, terms to expire December 31, 1995, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 225

G. **RESOLUTION NO. 94-10 - RESOLUTION REAPPOINTING MITCH McENTIRE TO THE FIREMEN'S RELIEF FUND**

Summary: The term of Mitch McEntire expired on December 31, 1993. This resolution will reappoint Mr. McEntire for an additional two year term, term to expire January 1, 1996, or until his successor has been duly appointed and qualified

RESOLUTION BOOK NO. 21 - PAGE 227

H. **RESOLUTION NO. 93-11 - RESOLUTION SETTING A PUBLIC HEARING FOR JANUARY 25, 1994, RELATIVE TO DEMOLITION OF 29 MADISON LANE, ASHEVILLE, NORTH CAROLINA**

RESOLUTION BOOK NO. 21 - PAGE 228

I. **RESOLUTION NO. 93-12 - RESOLUTION SETTING A PUBLIC HEARING FOR JANUARY 25, 1994, RELATIVE TO DEMOLITION F 92 BRYANT STREET, ASHEVILLE, NORTH CAROLINA**

RESOLUTION BOOK NO. 21 - PAGE 230

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. **MOTION TO CUT COUNCIL SALARIES**

Councilman McClure moved to cut Councilmember salaries by 33%. He felt that since the Council was elected to be fiscally responsible, they should lead by example and make a symbolic gesture to cut their salary. This motion was seconded by Vice-Mayor Peterson.

Councilwoman Sitnick didn't have any problem with cutting her pay, however, serving the City was full-time work and was amazed that anyone could become a member of City Council and have a regular job. She applauded Councilman McClure for making the gesture, however, wanted to make sure that the public understood that this reduction in pay would in no way diminish the amount of work on her part. She stated that she would like to look at other areas in the budget so Council can live up to their mandate of being fiscally responsible.

Councilwoman Field stated that the reduction might have to reflect diminished input on her part.

The above motion was defeated on a vote of 2-5, with Mayor Martin, Councilwomen Field and Sitnick and Councilmen Swicegood and Watts voting "no."

Councilwoman Field moved to table this matter until Council's retreat at which time it would be seriously looked at. This motion was seconded by Councilman Watts and carried unanimously.

B. BILTMORE DAIRY FARMS SEWER LINE

Councilwoman Sitnick stated that on December 21, 1993, Council was presented with an option to vote on the City contributing 1/3 of the cost of construction of a sewer outfall line (not to exceed $185,000) for a Biltmore Dairy Farms Inc. project. She, in fact, voted in favor for this, however, she apologized for her affirmative vote and attributed it to her lack of information, poor judgment and newness on Council. She felt the City should support investment in development, but there are other areas already annexed that are not receiving the services they should. In reflection, she wished she could take back her affirmative vote.

C. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on January 5, 1994:

UNC-A - PHYSICAL EDUCATION BUILDING

Mr. Green said that UNC-A is proposing the construction of a two-story, 51,000 square feet physical education building. The building is proposed to be located between the existing track and the Justice Gym. The site and all property surrounding the site is owned by the University and contained within the OI zoning district. The proposed project meets the minimum requirements of the zoning ordinance and has received approval for availability of services from the Fire Department.

At their January 5, 1994, meeting, the Planning and Zoning Commission voted to recommend approval of the project with one condition, i.e., approval for availability of services must be obtained from the A-B Water Authority and MSD.

A few neighboring residents voiced their concern at the meeting regarding existing adverse traffic problems on streets surrounding the University. A representative of UNC-A recognized the existing situation and indicated that no new traffic access points will result from the proposed building. Additionally, one neighboring resident voiced a concern about the impact of the new building on the sanitary sewer lines along Division Street. The Planning staff and MSD are working with the residents to address the concerns.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

LAUREL BRIDGE HOUSING COMMUNITY

Mr. Green said that Mountain Housing Opportunities is proposing the development of a 10-unit housing development on the site located off Mountain View Road and Whitson Road in Haw Creek. Five duplexes are planned for the site, with two of the units to be handicap accessible apartments. The development will be accessed from Whitson Road and by the construction of a new street from Mountain View Road. The proposed street from Mountain View Road will be constructed on an existing public right-of-way and will be built to City standards. Laurel Bridge Housing Community is proposed as an affordable housing development which will provide housing for those people preparing to purchase homes.

The project site is zoned R-3 and the proposed development complies with all requirements of the zoning ordinance. After reviewing the development plans, the Planning and Zoning Commission unanimously recommended approval of the project with the following conditions:

1. Receipt of letters confirming availability of water and sewer services;

2. Construction of Shady Circle to City specifications;

3. Installation of a new fire hydrant to provide fire protection to the development; and

4. Provide two parking spaces for each home.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

D. H. K. EDGERTON COMMENTS RELATIVE TO INTERIM CITY MANAGER

Mr. H. K. Edgerton spoke about the great injustice that has been done to Assistant City Manager Charles Penny by not appointing him as Interim City Manager.

E. PETITION - TRAFFIC LIGHT AT INTERSECTION OF MERRIMON AVENUE AND COLEMAN AVENUE

Mr. Lloyd Coffee, presented Council with a petition containing approximately 225 signatures to install a traffic light at the intersection of Coleman Avenue and Merrimon Avenue. The reason is that the traffic flow is very heavy, and because of the many children (over 300) that live only a few blocks from the intersection and cross to the park daily. One 10 year old child has been killed in 1993. In addition, one 8 year old child has been hit, and is still in Thom's Rehabilitation and may never walk again.

He urged Council to do something temporarily while the State is working on it. He suggested Council send a letter to the State recommending a traffic light at that intersection. He asked that the bushes be cut back at the intersection where Weaver Boulevard and Coleman meet.

Councilwoman Sitnick stated that all of Merrimon Avenue needed to be looked at, assessed and improved, in particular traffic speeds and traffic patterns.

Councilwoman Field, Chairman of the Transportation Advisory Committee, will take this matter up at their next meeting with DOT to see what the City can do.

Mayor Martin instructed the City Manager to have the Traffic Engineer and also the Chief of Police look into this very dangerous situation.

F. MOTION TO ENTER INTO AGREEMENT WITH WILLIAM B. FARRIS

Councilman McClure moved to authorize the Mayor to execute a contract with Interim City Manager William B. Farris. This motion was seconded by Councilwoman Sitnick and carried unanimously.

G. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of December 20-24, 1993: Alice McDonald (Water), Shannon E. Bell (Police), Becky Norton (Streets) and Sally Lentini (Streets).

He also said that the following claims were received during the week of December 24-28, 1993: Evonne Sullivan (Water), Southern Bell (Water) and Diane Powell (Water).

He said the following claims were received during the week of January 3-7 1994: Gwendolyn A. Clay (Police), Tammy Metcalf (Streets), Gary Long (Water), Edward P. Rice (Streets), Chris Baird (Streets), Jim Thompson (Water), Angel Miller (Water), Cindy Jolly (Inspections), and June E. Hutchison (Fire).

He said that these claims would be referred to the appropriate insurers for investigation.

Councilwoman Field moved to take a recess for Council to have supper with NC DOT officials and to reconvene the regular meeting at 7:00 p.m. in the Civic Center Banquet Room to hold the public hearing relative to the Broadway Widening Project. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin reconvened the regular Council meeting in the Banquet Room of the Asheville Civic Center at 7:05 p.m.

PUBLIC HEARING

PUBLIC HEARING RELATIVE TO THE BROADWAY WIDENING PROJECT

Mayor Martin opened the public hearing at 7:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Ron Fuller, Transportation Planner, explained in detail the Broadway Widening Project. In summary, he outlined (1) the history of the project, (2) transportation challenges, (3) daily traffic projections, (4) potential growth factors, (5) greenway development, (6) three-lane versus four-lane, (7) plan comparisons, (8) re-design of the intersection, and (9) the importance of land use regulation.

Mr. Blake Norwood, representative of NC DOT, spoke about the City, DOT and special interest groups each being well intentioned and each having the City's best interest at heart. Unfortunately, as each looks at the same situation, different conclusions are drawn. He outlined the significant benefits of the project and stressed that DOT has worked in cooperation with the City over the past 10 years, doing environmental studies, public hearings, design of the project, re-design of the project, acquisition of all right-of-way and now is on the verge of letting the project in June of this year. NC DOT has listened to the concerns of the community over the years, i.e. sidewalks on the east side of the project, wider outside lanes for bicycles, providing $188,000 to make this a beautiful aesthetic route into the central business district, and has purchased right-of-way for a greenway. He said that DOT has bought 100% of the right-of-way, moved people from their homes and demolished the houses. The State has spent $1.7 Million of taxpayers money in a good faith cooperation with the City over this 10 year period of time. They have received Transportation Advisory Committee and Federal Highway Administration approval to move ahead with this project. They have meet federal requirements and all State statutes with regard to building this project. He said it is DOT's position to move forward in June of this year unless the City would ask that the project be stopped and at that time be willing to reimburse the taxpayers the $1.7 Million expended to date on this project. DOT feels that the time for discussion is past and DOT should be allowed to move forward.

Vice-Mayor Peterson stressed that it has been ten years since the project was originally approved and neighborhoods change. All the Council has asked is to let them review the project and to take another look at it.

Mr. Norwood responded that DOT has revisited the project (as late as 1991) and does not believe that the situation has materially changed since the project study was done. Mr. Norwood said that their primary concern is for taking care of potential capacity problems in the design years 2010 and 2020 and not to build a project that would not accommodate that type of volume in the future and then have to come back again. He again stressed that DOT has worked with past Councils on their assurances, letters sent to the Governor asking for this project, $1.7 Million spent in good faith and now this Council is suggesting that things may have changed. He asked that the City reimburse the money already expended so that DOT can use it elsewhere.

Councilwoman Sitnick stated that the people she has talked to are in favor of improving Broadway - the question is to what width. She questioned why a 3 lane, with a bike lane and a turning lane, could not handle the 14,000 car projection. She stated that even though she is not in favor of zoning for commercial development along Broadway, Council in the future might favor that type development. She questioned the current DOT design width of 74 feet for Broadway and was distressed of putting that much road in between two neighborhoods. She wondered if the City will have the necessary funds to maintain the additional widening. She asked DOT why they were not willing to wait a year and what the pressure was to resist considering the alternative.

Mr. Norwood said that, through the course of studying options for this project, they have examined the options of a 3 lane presented by this group. DOT does not believe the 3 lane will provide the future capacity of the road.

Councilwoman Sitnick suggested DOT going with a design that cost 1/2 as much as the current design project and reimbursing the other 1/2 to the taxpayers. Mr. Norwood stated that DOT could not return the $1.5 Million already spent for right-of-way and the construction cost for the facility is about $1.25 Million. He said that going down to a 3 lane would not be a dramatic savings. He offered to put together those figures and get them to the Council.

Councilman McClure said that both sides on this issue have merit in that both groups are concerned about Asheville. He asked specific questions relative to the best and worst case scenarios.

Councilman Watts questioned the outcome of the project if the project was put off.

Upon inquiry of Councilwoman Field, Mr. Norwood said that very minor changes could be made to the plan prior to the letting of the project in June.

A question arose concerning the State North Carolina School of Design and it's work with DOT on a road that bisected the Research Triangle Park. Mr. Norwood said that for that project, DOT actually did the design but they did take into consideration some recommendations the students made. He stressed that it is the DOT's responsibility for the design and to do the design and they don't feel comfortable in trusting that responsibility to anyone outside of DOT.

Councilwoman Sitnick asked why DOT could not maintain the acquisition of those rights-of-way and create more greenway instead of widening the road. Mr. Norwood stated that State law only allows DOT to condemn property for use as a transportation facility and no other purpose.

Ms. Betty Lawrence, representative of the Broadway Improvement Project (BIP), stressed that the group is only asking for the group, City Council, TAC and DOT to take another look at the design of the road. She addressed the issue about the City being liable to reimburse DOT back the $1.7 Million. She summarized BIP's concerns which include, but are not limited to, sidewalks only on the east side of the road (the DOT design takes out the existing sidewalks on the west side), the width of the road will encourage speeding, the width will encourage traffic signals (which will impede traffic), the deletion of the bike path going into downtown, the division of neighborhoods and inadequate space for the greenway.

Below are the major DOT design particulars:

- From Catawba Street to Chestnut Street (Five Points) the road will be widened to a four-lane facility
- A 16 foot landscaped median will be constructed from Catawba Street to Ocala Street
- The median will end east of Ocala Street as the road transitions from divided roadway to undivided roadway
- A sidewalk will be constructed on the east side from Chestnut to W.T. Weaver Boulevard
- The 2 outside traffic lanes will be 14 feet in width and striped to accommodate bicycle traffic

- The 2 inside lanes will be 11 feet in width

- Turn lanes will be constructed at each of the intersecting roadways

- The intersection of Woodrow Avenue and Ocala Street will be re-aligned so they intersect Broadway at the same location

- Two of the major curves in Broadway will be re-aligned. One is between Catawba and Hillside. The other is between Ocala and Magnolia

- The portion of Broadway from Chestnut Street to Lexington will not be widened. It is currently scheduled to have the on-street parking removed and to be re-surfaced and re-striped to either a three-lane or a four-lane facility

- The existing design of the intersection of Broadway and Lexington/Merrimon is being examined in order to more safely handle the traffic and to provide a crucial link from downtown to Broadway Avenue

- The posted speed limit will remain at 35 mph

The following individuals spoke in favor of the DOT design (4-lane):

- L.J. Hensley, raised on Broadway
- Mike Moser, speaking on behalf of, and as past Chairman of, the Planning & Zoning Commission and the UDO, and representative of the Chamber of Commerce, businessman and resident of that area
- Steve Holt, Chief Executive Director of the Chamber of Commerce
- Larry Wilson, Interim Chancellor of UNC-A
- Henry C. McFee, resident
- Tom Bacon, Director of MAHEC
- Christine Curry, 188 Cherokee Road
- Barbara Hodgson, 107 Evelyn Place
- Dennis Hodgson, 107 Evelyn Place

The following individuals urged Council to take another look at the design, recognizing that Broadway needed to be improved - but not to a 4-lane. Comments included, but are not limited to: pedestrian safety, sidewalk inadequacy, safety for bicyclists, unwanted strip development, expense of maintaining median and excessive speeding.

- Nancy Bumgardner, 146 Murdock
- Ruben Faulkner, resident of Asheville
- Rob Neufeld, Librarian and Historian
- Rosa Davis, resident of Tunnel Road section
- Ileana Grams, 332 Barnard Avenue
- Alexis Gault, 44 Woodrow Avenue
- Sarah Wall, representative of the Norwood Park Neighborhood Association
- Hazel Fobes, resident
- Charles Hill, 805 Ridge Road

- Amy Fahmy, representative of the Coalition for Community Conservation, a joint partnership between the Landscape Architecture Department and the North Carolina State School of Design and the Conservation Trust - showed slides
- Rusty Sivils, presented petition which reads in part "We, the undersigned citizens of North Carolina, want improvements to Broadway from Chestnut St. north to Catawba St. We, nevertheless, strongly oppose the current plans to widen that road to four lanes . . ." He said petition contained approximately 1,000 signatures.
- Jerry Snow, 30 Watauga Street
- Doug Nicely, 37 East Chestnut Street
- Mary Everhart, Courtland Avenue resident and UNC-A student
- Albert Demartino, UNC-A student
- Peter Loewer, 185 Lakewood Drive
- Greg Gregory, 1020 Hendersonville Road
- John Garashay, 75 West Street
- David Walter, 39 North Street
- Carl Nyberg, 7 Buckingham Court
- Gawain Mainwaring, Montford resident
- Cindy Allen, 1065 Riverside Drive
- Mary Jo Brezny, Montford Avenue
- Richard Harrison, 23 Woodley Avenue
- Martha Walz, resident
- John Legerton, 6 Bolling Park Road
- Jim Samsel, 132 Norwood Avenue
- Scott Dedman, 209 Cumberland Avenue
- Art Booth, 45 King Street
- Laura Deaton, North Carolina Alliance for Transportation Reform
- Annabelle Green
- Megan Gordon, 35 Cullowee Street
- Billie Buie, 2 Horizon Hill Road
- Nelson Lordman, 68 Courtland Avenue

Mr. Brady Blackburn, Chairman of the Downtown Commission, stated that he was neutral, but wanted Council to carefully consider the increased traffic at the I-240 interchange. He urged Council to make it safe for our citizens and tourists to get into our downtown area.

When Councilwoman Field inquired about the Coalition of Community Conservation working with the City and DOT on this project, Ms. Amy Fahmy said that if DOT goes with the 4 lane, there is not a lot of point in trying to say there's going to be a greenway. She said they are really interested in having a quality road and will provide some services if a 4 lane goes in; however, they would prefer to work with BIP on a 2 lane. She felt that the amount of time and energy they would have to put in free of charge would not be worthwhile for just a token sidewalk and a couple of feet on the edge of the road if a 4 lane goes in.

Councilwoman Sitnick moved that the Asheville City Council request another meeting with Gordon Myers (Board of Transportation), Blake Norwood (Department of Transportation), members of the Transportation Advisory Commission, and the City Council in order to address the overwhelming public outpouring of concerns regarding the Broadway

Widening Project so that the Council, the Board of Transportation, the Department of Transportation and the Transportation Advisory Commission can find a workable compromise on this project. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilman Swicegood stated that he favored a 4 lane, but he would also be in favor of taking a look at a median change to possibly provide for a bigger bike path. He did not want this matter put off for a long period of time.

Mayor Martin closed the public hearing at 10:53 p.m.

Councilwoman Field totally supported sitting down and talking with all groups involved. She was committed to finding something that works for the community and felt it was important to have a meeting and listen to both sides.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:55 p.m.

William D. Holcomb, Jr.
CITY CLERK

MAYOR

HAW CREEK ANNEXATION - PHASE II
EIGHT INCH SEWER LINE PROJECT

Project Number. SC-91-001
Contract Number: E-372

ITEM No.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	ENGINEER ESTIMATE	BUCKEYE CONST CO CANTON NC LIC NO 23096 UNIT PRICE	BUCKEYE CONST CO CANTON NC LIC NO 23096 EXTENDED TOTAL	TERRY BROS CONST. LEICESTER NC LIC NO. 10295 UNIT PRICE	TERRY BROS CONST. LEICESTER NC LIC NO. 10295 EXTENDED TOTALS	WHEELER CONST CO. WEAVERVILL NC LIC NO. 14910 UNIT PRICE	WHEELER CONST CO. WEAVERVILL NC LIC NO. 14910 EXTENDED TOTALS	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 UNIT PRICE	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 EXTENDED TOTALS
1a	74	EA	4 Ft. Diameter Precast Concrete Manholes (Depth of 0' - 6')	$1,000.00	$74,000.00	$938.00	$69,412.00	$900.00	$66,600.00	$900.00	$66,600.00	$1,200.00	$88,800.00
1b	5	EA	4 Ft. Diameter Precast Concrete Manholes (Depth of 6' - 8')	$1,200.00	$6,000.00	$1,100.00	$5,500.00	$1,200.00	$6,000.00	$1,000.00	$5,000.00	$1,300.00	$6,500.00
1c	2	EA.	4 Ft. Diameter Precast Concrete Manholes (Depth of 8' - 10')	$1,400.00	$2,800.00	$1,250.00	$2,500.00	$1,400.00	$2,800.00	$1,200.00	$2,400.00	$1,500.00	$3,000.00
2a	8650	L.F.	8-IN SEWER PIPE & BEDDING	$22.00	$190,300.00	$15.70	$135,805.00	$18.00	$155,700.00	$18.25	$157,862.50	$20.00	$173,000.00
2b	803	L.F.	8-IN DUCT. IRON CLASS 50 SANITARY SEWER PIPE AND BEDDING	$25.00	$20,075.00	$20.70	$16,622.10	$22.00	$17,666.00	$25.00	$20,075.00	$25.00	$20,075.00
3	1960	L.F.	4-INCH SEWER SERVICE PIPE & BEDDING	$12.00	$23,520.00	$10.00	$19,600.00	$12.00	$23,520.00	$12.00	$23,520.00	$15.00	$29,400.00
			SUB-TOTAL 1		$316,695.00		$249,439.10		$272,286.00		$275,457.50		$320,775.00

HAW CREEK ANNEXATION - PHASE II
EIGHT INCH SEWER LINE PROJECT

Project No. SC-91-001
Contract Number: E-372

ITEM No.	QUANTITY	UNIT	DESCRIPTION	ENGINEER ESTIMATE UNIT PRICE	ENGINEER ESTIMATE	BUCKEYE CONST. CO. CANTON NC LIC NO 23096 UNIT PRICE	BUCKEYE CONST. CO. EXTENDED TOTAL	TERRY BROS. CONST. LEICESTER NC LIC NO. 10295 UNIT PRICE	TERRY BROS. CONST. EXTENDED TOTALS	WHEELER CONST. CO. WEAVERVILLE NC LIC NO. 14910 UNIT PRICE	WHEELER CONST. CO. EXTENDED TOTALS	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 UNIT PRICE	HOBSON CONST. CO. EXTENDED TOTALS
4	62	EA.	LATERAL SERVICE CONNECTIONS TO NEW SANITARY SEWER (COMPLETE)	$220.00	$13,640.00	$150.00	$9,300.00	$60.00	$3,720.00	$200.00	$12,400.00	$50.00	$3,100.00
5	64	EA	4 IN CLEANOUTS (COMPLETE)	$110.00	$7,040.00	$130.00	$8,320.00	$125.00	$8,000.00	$200.00	$12,800.00	$125.00	$8,000.00
PAVING RESTORATION & REHABILITION													
6a	3920	TONS	CRUSHED AGGREGATE BASE COURSE	$12.00	$47,040.00	$10.00	$39,200.00	$9.75	$38,220.00	$10.00	$39,200.00	$10.00	$39,200.00
6b	640	TONS	BITUMIOUS CONCRETE BASE COURSE TYPE HB	$50.00	$32,000.00	$55.00	$35,200.00	$55.00	$35,200.00	$55.00	$35,200.00	$60.00	$38,400.00
6c	850	TONS	BITUMIOUS CONCRETE SURFACE COURSE TYPE I 2	$50.00	$42,500.00	$54.00	$45,900.00	$50.00	$42,500.00	$60.00	$51,000.00	$60.00	$51,000.00
LANDSCAPING													
7	LUMP	SUM	TREE REHABILITION & RESTORATION (SEE SPECIAL CONDITIONS - SHEET 2 OF 23)	$10,000.00	$10,000.00	$5,500.00	$5,500.00	$5,500.00	$5,500.00	$3,500.00	$3,500.00	$5,000.00	$5,000.00
8	1.2578051	ACRES	SEEDING AND GRASSING	$600.00	$754.69	$1,200.00	$1,509.37	$1,200.00	$1,509.37	$2,000.00	$2,515.61	$1,200.00	$1,509.37
			SUB TOTAL 2		$154,934.69		$111,129.37		[illegible]		$356,635.61		$216,209.37

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HAW CREEK ANNEXATION - PHASE II
EIGHT INCH SEWER LINE PROJECT

Project Number: SC-91-001
Contract Number: E-372

ITEM No.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	ENGINEER ESTIMATE	BUCKEYE CONST. CO. CANTON NC LIC NO 23096 UNIT PRICE	BUCKEYE CONST. CO. CANTON NC LIC NO 23096 EXTENDED TOTAL	TERRY BROS. CONST. LEICESTER NC LIC NO. 10295 UNIT PRICE	TERRY BROS. CONST. LEICESTER NC LIC NO. 10295 EXTENDED TOTALS	WHEELER CONST. CO. WEAVERVILL NC LIC NO. 14910 UNIT PRICE	WHEELER CONST. CO. WEAVERVILL NC LIC NO. 14910 EXTENDED TOTALS	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 UNIT PRICE	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 EXTENDED TOTALS
9	895	L.F	TREE ROOT BARRIER-RETARDENT	$6.25	$5,593.75	$9.10	$8,144.50	$12.00	$10,740.00	$5.00	$4,475.00	$10.00	$8,950.00
10	4	EA.	TREE REMOVAL (0"-24")	$300.00	$1,200.00	$700.00	$2,800.00	$400.00	$1,600.00	$500.00	$2,000.00	$300.00	$1,200.00
11	1	EA.	TREE REMOVAL (24"-48")	$350.00	$350.00	$1,000.00	$1,000.00	$600.00	$600.00	$1,000.00	$1,000.00	$500.00	$500.00
GENERAL CONSTRUCTION MATERIALS													
12	545	L.F.	SILT FENCING	$10.00	$5,450.00	$2.50	$1,362.50	$3.00	$1,635.00	$2.50	$1,362.50	$1.50	$817.50
13	51	TONS	RIP-RAP	$20.00	$1,020.00	$20.00	$1,020.00	$25.00	$1,275.00	$25.00	$1,275.00	$22.00	$1,122.00
14	100	TONS	EXTRA SEWER LINE BEDDING MATERIALS	$10.00	$1,000.00	$15.00	$1,500.00	$14.00	$1,400.00	$15.00	$1,500.00	$11.00	$1,100.00
15	LUMP	SUM	MOBILIZATION	$5,000.00	$5,000.00	$10,000.00	$10,000.00	$13,000.00	$13,000.00	$15,000.00	$15,000.00	$3,500.00	$3,500.00
16	2.5	S.Y.	8 INCH THICK PLAIN 4000 PSI CONCRETE FOR DRIVEWAY REPAIR	$20.00	$50.00	$35.00	$87.50	$100.00	$250.00	$25.00	$62.50	$100.00	$250.00
17	2.5	C.Y.	MISC. PLAIN 3000 PSI CONCRETE	$80.00	$200.00	$150.00	$375.00	$200.00	$500.00	$175.00	$437.50	$150.00	$375.00
			SUB TOTAL 3		$19,063.75		$26,289.50		$31,000.00		$27,112.50		$17,814.50

HAW CREEK ANNEXATION - PHASE II
EIGHT INCH SEWER LINE PROJECT

Project Number: SC-91-001
Contract Number: E-372

ITEM No.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	ENGINEER ESTIMATE	BUCKEYE CONST. CO. CANTON NC LIC NO 23096 UNIT PRICE	EXTENDED TOTAL	TERRY BROS. CONST. LEICESTER NC LIC NO. 10295 UNIT PRICE	EXTENDED TOTALS	WHEELER CONST. CO. WEAVERVILL NC LIC NO. 14910 UNIT PRICE	EXTENDED TOTALS	HOBSON CONST. CO. ARDEN NC LIC NO. 3756 UNIT PRICE	EXTENDED TOTALS
18	20	C.Y.	ROCK EXCAVATION & SELECT BACKFILL	$45.00	$900.00	$65.00	$1,300.00	$60.00	$1,200.00	$45.00	$900.00	$60.00	$1,200.00
19	500	C.Y.	SELECT BACKFILL	$5.00	$2,500.00	$6.00	$3,000.00	$6.00	$3,000.00	$8.00	$4,000.00	$5.00	$2,500.00
20	LUMP	SUM	TRAFFIC CONTROL	$2,500.00	$2,500.00	$500.00	$500.00	$11,000.00	$11,000.00	$2,000.00	$2,000.00	$5,000.00	$5,000.00
21	LUMP	SUM	RE-MOBILIZATION	$2,500.00	$2,500.00	$1,500.00	$1,500.00	$250.00	$250.00	$2,000.00	$2,000.00	$2,000.00	$2,000.00
			SUB-TOTAL 4		$8,400.00		$6,300.00		$15,450.00		$8,900.00		$10,700.00
			SUB-TOTAL 1		$316,695.00		$249,439.10		$272,286.00		$275,457.50		$320,775.00
			SUB-TOTAL 2		$152,974.68		$144,929.37		$134,649.37		$156,615.61		$146,209.37
			SUB-TOTAL 3		$19,863.75		$26,289.50		$31,000.00		$27,112.50		$17,814.50
			SUB-TOTAL 4		$8,400.00		$6,300.00		$15,450.00		$8,900.00		$10,700.00
			TOTAL CONTRACT		$497,933.43		$426,957.97		$453,385.37		$468,085.61		$496,498.87

Tuesday - January 25, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilwoman Barbara Field (out of town)

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. **RESOLUTION NO. 94-19 - RESOLUTION SUPPORTING INSTALLATION OF SMOKE DETECTORS IN ALL RESIDENCES IN ASHEVILLE AND BUNCOMBE COUNTY**

Fire Chief John Rukavina said that the tragic deaths of Pickney Greer Johnson and Eleanor Johnson as a result of fire in their Asheville residence, and of Christina and Jennifer Allen in a fire in their Buncombe County home, have demonstrated the importance of fire safety generally and smoke detectors in particular. Based on national data, at least 30,000 homes, apartments and mobile homes in Asheville and throughout Buncombe County do not have smoke detectors. With strong community support, it is possible to increase efforts to promote smoke detector use and provide smoke detectors to those who can't otherwise afford them to a point where, by the end of this decade, every residence in Asheville and Buncombe County would be protected by at least one working smoke detector.

Ms. Jewell Rhinehart, grandmother of Christina and Jennifer Allen, spoke about the importance of smoke detectors and the definite need for them.

Mr. Mike Knisely, representative of the Asheville Firefighters Association, briefed the Council on the Association's support of the Smoke Detector Giveaway Program and their involvement in that Program over the past seven years.

Mr. Charles Penny and Mr. Ken Robertson, representatives of the American Red Cross, stated that their Board authorized the purchase of 300 smoke detectors to be installed in homes of the elderly and economically disabled in our community. They will work with the Asheville Firefighters Association and hope that the program can also be expanded into Madison County.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved to adopt Resolution No. 94-14. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 237

B. **RESOLUTION NO. 94-14 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MICHAEL ALEXANDER**

Mayor Martin read the resolution stating that Michael Alexander has been an employee for 20 years and has requested retirement from his position as Police Sergeant. He expressed City Council's appreciation to Michael for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-14. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 232

C. **RESOLUTION NO. 94-15 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ERNEST EDWARDS**

Mayor Martin read the resolution stating that Ernest Edwards has been an employee for 35 years and has requested retirement from his position as Police Lieutenant. He expressed City Council's appreciation to Ernest for his service to the City of Asheville and its citizens.

Councilman Watts moved for the adoption of Resolution No. 94-15. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 233

D. **RESOLUTION NO. 94-16 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ALAN O'DONNELL**

Mayor Martin read the resolution stating that Alan O'Donnell has been an employee for 6 years and has requested retirement from his position as Police Officer Senior. He expressed City Council's appreciation to Alan for his service to the City of Asheville and its citizens.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-16. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 234

E. **RESOLUTION NO. 94-17 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DEBBIE WELBORN**

Mayor Martin read the resolution stating that Debbie Welborn has been an employee for 5 years and has requested retirement from her position as Police Officer Senior. He expressed City Council's appreciation to Debbie for her service to the City of Asheville and its citizens.

Councilman Swicegood moved for the adoption of Resolution No. 94-17. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 235

F. **RESOLUTION NO. 94-18 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RUEL AUSTIN**

Mayor Martin read the resolution stating that Ruel Austin has been an employee for 14 years and has requested retirement from his position as Water Customer Services Superintendent. He expressed City Council's appreciation to Ruel for his service to the City of Asheville and its citizens.

Councilman Swicegood moved for the adoption of Resolution No. 94-18. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 236

G. PRESENTATION OF QUARTERLY B*E*S*T AWARD - 4th QUARTER 1993

City Manager Farris presented Betty Myers (Public Works Department) with the 1993 4th Quarterly B*E*S*T award.

Betty was nominated for going above and beyond when a fellow employee was seriously injured while on the job. She carried on behind-the-scenes all day to notify various out-of-town family members and to "look after" the workers who were deeply disturbed by the accident. All this time, she was upset herself, but continued to hold things together. After she left work at 3:00 p.m., she went to the hospital, where she stayed until after 8:00 p.m. (when the employee came out of surgery). Her unselfish support to her co-workers and the injured employee's family should be recognized.

H. PROCLAMATION PROCLAIMING THE WEEK OF JANUARY 30-FEBRUARY 5, 1994, AS "CATHOLIC SCHOOLS WEEK"

Mayor Martin proclaimed the week of January 30-February 5, 1994, as "Catholic Schools Week" in the City of Asheville.

I. RECOGNITION BY LESTER McEWING OF TWO CITY AGENCIES

Mr. Lester McEwing thanked the Housing Authority and the Asheville-Buncombe Historic Resources Commission for their support and assistance when he renovated 125 Cherry Street located within the Montford Historic District and within one of the redevelopment areas identified by the Housing Authority. He said that he renovated the house, which was in a neglected state and converted it to office space.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 29 MADISON LANE, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2072 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 29 MADISON LANE, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:39 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Safety, said that on March 26, 1992, the Building Safety Division inspected 29

Madison Lane and found the dwelling dilapidated in that the walls, floors and roof are structurally unsound, there are no sanitary facilities, no electricity, the structure is abandoned and occupied by vagrants and is accessible to the public.

Mayor Martin closed the public hearing at 4:42 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2072. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2072 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 119

B. **PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 92 BRYANT STREET, ASHEVILLE, NORTH CAROLINA**

ORDINANCE NO. 2073 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY DIVISION TO DEMOLISH THE DWELLING LOCATED AT 92 BRYANT STREET, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:43 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Safety, said that on February 20, 1992, the Building Safety Division inspected 92 Bryant Street and found the dwelling unfit for human habitation. Inspections revealed that the walls, floors and roof are damaged and structurally unsound. The structure is more than 50% gutted by fire, has insufficient facilities and is abandoned and very unsanitary.

Mr. Trantham answered questions relative to the cost of demolition and the cost if asbestos is found in the house.

Upon inquiry of Councilman McClure, Mr. Trantham stated that the demolition process usually takes about two years. City Attorney Slawter stated that time period could be shortened, but he was not sure by how much. He stated that the demolition process is a very complex matter, in particular the notification requirements.

Mr. Trantham responded to Councilman Watts' questions as they related to the status of 126 Broad Street and the Short Crescent Apartments.

Mayor Martin closed the public hearing at 4:51 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2073. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2073 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 121

C. PUBLIC HEARING RELATIVE TO ADOPTION OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

Councilwoman Sitnick moved to continue the public hearing until 4:00 p.m. on February 1, 1994, in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilman Watts and carried unanimously.

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

City Attorney Slawter said that this matter has been continued on several prior occasions for the purpose of allowing time for the courts to make a final determination on the appeal filed by the neighbors from the issuance of zoning and building permits allowing Ken Maultsby to complete the structure. In a recent ruling in the Superior Court, Judge Saunders has found that the permits have been improperly issued and has directed that the City take the necessary steps to enforce Bob Hixson's original demolition order which was entered against Brummer in 1991. He said that he filed a motion asking Judge Saunders to reconsider and to revise his order, but he has denied that motion.

Based upon the ruling from Judge Saunders, Bob Hixson has sent Ken Maultsby a directive that the demolition proceed. If Mr. Maultsby does not follow through with that directive, and there are no further proceedings before the Board of Adjustment or the Superior Court, then Council will still need to determine whether to adopt the ordinance on final reading. At this point, he recommended that the final reading again be continued.

Councilman Swicegood moved to continue the third and final reading of Ordinance No. 1958 until March 15, 1994. This motion was seconded by Councilman Watts and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-20 - RESOLUTION TO PROVIDE FOR A REFERENDUM BY THE CITY OF ASHEVILLE'S ELIGIBLE FIRE DEPARTMENT EMPLOYEES UNDER THE PROVISIONS OF ARTICLE 2 OF CHAPTER 135 OF THE GENERAL STATUTES OF NORTH CAROLINA AND UNDER PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER OF JULY 21, 1961

Fire Chief John Rukavina said that firefighters hired prior to April 1, 1986, do not participate in either Social Security or Medicare, pursuant to federal and state laws and regulations.

However, both federal and state laws and regulations authorize a referendum for non-participating firefighters to authorize participation in Social Security (including Medicare) or in Medicare alone.

Earlier this year, firefighters hired prior to April 1, 1986, voted down participation in Social Security. A petition has been filed requesting a referendum among these firefighters for participation in Medicare only. State and federal law requires City Council authorization/initiation of this referendum process.

The fiscal impact would be $49,390, representing City matching contribution of employee 1.45%-of-salary contribution for Medicare coverage for one fiscal year, based on the present budget.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-20. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 238

B. **ORDINANCE NO. 2074 - BUDGET AMENDMENT TO APPROPRIATE COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR AN EMPLOYER ASSISTED HOUSING PROGRAM**

Mr. Marvin Vierra, Community Development Director, summarized the employer assisted housing program. He said that it provides low interest mortgage loans and down payment assistance funds to help low and moderate income employees purchase a home for the first time. The program will be a joint effort of the City and the N. C. Housing Finance Agency ("Agency"). Community Development Block Grant program income of $10,000 will cover cost for the first 6-12 months of the program.

Upon inquiry of Vice-Mayor Peterson, Mr. Vierra explained that from a survey sent to all City employees, 59 were interested and 45 are eligible. He explained about the workshop that will be held and said that possible pre-screening would be done at that time.

Councilman McClure wanted to make sure that employees were aware that there were financial institutions that offer some programs which are competitive with this program for first time home buyers. He felt the City needed to research all its alternatives.

Mr. Ralph Bishop questioned why this federal money was only available to City employees.

Mr. Lloyd felt that $50,000 would not be enough for a house if it were in compliance with the Minimum Housing Code. Mr. Vierra responded that once the initial $510,000 was spent (amount committed by the Agency), then the City would try to obtain a new commitment from the Agency.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2074. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2074 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 123

C. **ORDINANCE NO. 2075 - BUDGET AMENDMENT FOR CHANGE ORDERS TO STREET AND SIDEWALK CONTRACT #11**

Mr. Jim Ewing, Public Works Director, said that this budget amendment, in the amount of $515,933, will amend the current Street and Sidewalk Contract No. 11 to allow for approved change orders. Approximately one-half of the changes are for water and sewer utilities. These change orders include the additional work Council approved on White Pine Drive in the amount of $59,000.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick asked if it was unusual for these many change orders for a particular contract. Mr. Ewing stated that the City can generally anticipate 10-25% increase in the project when they get into a system where the infrastructure is over 50 years old.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2075. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2075 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 125

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 11, 1994**

B. **BIDS RELATIVE TO PARKING CONTROL EQUIPMENT**

Summary: Recommend awarding bid for parking control equipment to Cincinnati Systems Inc., Greenville, South Carolina, in the amount of $45,911. A copy of the complete bid summary is attached hereto as Exhibit "A".

Upon inquiry of Councilman Swicegood, City Manager Farris said that this amount includes computer equipment necessary to tie the one remaining deck into an overall computer management system for the parking decks.

C. **RESOLUTION NO. 94-21 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH NORTH CAROLINA HOUSING FINANCE AGENCY FOR AN EMPLOYER ASSISTED HOUSING PROGRAM**

Summary: See prior budget amendment ordinance to appropriate CDBG funds for an employer assisted housing program.

RESOLUTION BOOK NO. 21 - PAGE 240

E. **RESOLUTION NO. 94-22 - RESOLUTION AUTHORIZING THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS TO CONVEY REAL PROPERTY TO THE ASHEVILLE CITY SCHOOL BOARD**

Summary: Buncombe County owns a parcel of real property due to nonpayment of ad valorem taxes. The parcel is also held in trust by the County for the City. The parcel is adjoining the Isaac Dickson School. The Asheville City Board of Education is about to undertake a project for improvement of traffic flow at the Isaac Dickson School. In order to undertake said project, the School Board is in need of the parcel and this resolution will give the City's approval to convey it to the School Board.

RESOLUTION BOOK NO. 21 - PAGE 241

F. **RESOLUTION NO. 94-23 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

Summary: The City/Airport Authority ("City") submitted a Request for State Aid to Airports dated 7-1-93 to NC DOT for $233,260 for Phase III Terminal Expansion. In accordance with project approval procedure, NC DOT approved a grant for $233,260 in State Aid to Airports for the requested items of work. NC DOT and the City mutually executed a Grant Agreement dated 9-20-93, setting forth and agreeing to the terms and conditions of the Grant. NC DOT and the City have now determined and agreed that an additional $300,000 is needed due to final cost being higher than anticipated. This resolution will modify the amount of the State Grant Agreement dated 9-20-93 from $233,260 to $533,260.

RESOLUTION BOOK NO. 21 - PAGE 243

G. **RESOLUTION NO. 94-24 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TRANSIT AUTHORITY .**

Summary: The terms of Wanda Winslow, Myra Grant and David Fort expired on December 31, 1993. This resolution will (1) reappoint Myra Grant, 261 Forest Hill Drive, Asheville, N.C., (2) reappoint David Fort, 15 Briarcliff Drive, Asheville, N.C., and (3) appoint Ron Lambe, 104 Trotter Place, Asheville, N.C.. All appointments are for four year terms respectively, terms expiring December 31, 1997, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 244

H. **RESOLUTION NO. 94-25 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

Summary: The terms of Hal Starnes, Rudy Stefanec, Pat Ochsenreiter and Michelle Rippon expire on January 21, 1994. This resolution will (1) reappoint Michelle Rippon, 11 N. Market Street, Asheville, N.C., as an alternate member, (2) appoint Pat Ochsenreiter, 47 N. Market Street, Asheville, N.C., as an alternate member, (3) appoint Ann Cross, 5 Woodland Road, West, Asheville, N.C., as a regular member, and (4) appoint Lewis Clay, 1037 New Haw Creek Road, Asheville, N.C., as a regular member. All appointments are for three year terms respectively, terms expiring January 21, 1997, or until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 245

I. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 8, 1994, RELATIVE TO AMENDING SECTION 30-9-3d.6 OF THE CODE OF ORDINANCES REGARDING POLITICAL SIGNS**

J. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 8, 1994, TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL**

Councilman Swicegood moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VI. OTHER BUSINESS:

A. **CLARIFICATION BY COUNCILWOMAN SITNICK**

Councilwoman Sitnick questioned a letter she read in the paper on January 24, 1994, which said that the city has had a tax increase of 300%. City Manager Farris said that according to the information he was able to obtain from the financial report, the actual figure for the last ten years for ad valorem taxes was 97%. He said that he would be happy to write the individual who wrote the letter and inform him of his findings.

B. **RIGHT-OF-WAY AT BROADWAY AND CATAWBA**

City Manager Farris presented Council with a motion to authorize the Mayor to sign all documents necessary for the conveyance to the State of North Carolina of a fee simple right-of-way and permanent drainage easement on City property located at the southwestern corner of the intersection of Broadway and Catawba Street for consideration of $7,900. However, due to Councilwoman Sitnick's concern to vote on the matter considering the fact that there is so much question and answering going on about Broadway and the project in general, and the acquisition of right-of-way and how that affects the ultimate outcome, City Manager Farris felt delaying the matter until the next Council meeting would be appropriate.

C. **COMMENTS BY DANIEL BREEN**

Mr. Daniel Breen, 129 Charlotte Street, asked City Council to immediately institute legal proceedings to foreclose on the Pack Plaza property and have it sold and proceeds divided fairly among the creditors for Pack Plaza. If the Council is not willing to do that, he asked Council to have an outside auditor look at all relevant records relating to the Pack Plaza situation.

D. **COMMENTS BY RALPH BISHOP**

Mr. Ralph Bishop sought redress of the City Council. He accused City Clerk Wolcott of withholding information he requested from Council meetings of February 20, 1990, and February 27, 1990. City Clerk Wolcott responded that the information was made available to Mr. Bishop in verbatim form, but Mr. Bishop said the tapes had been tampered with and refused to pay for the transcript.

E. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of January 10-14, 1994: Bill Johnson (Water), Heather Reel (Parks), Southern Bell (Water), Sandra K. Maynor (Streets), Daisy Wachob (Sanitation), Hank Komodowski (Water), Margaret Tisdale (Streets), Helen A. Krickhan (Water), and Darlene Burnette (Park Maintenance).

He said that these claims would be referred to the appropriate insurers for investigation.

F. LAWSUIT REPORT

City Manager Farris said that the following lawsuit was received by the City of Asheville on Jan. 12, 1994: APAC-Carolina Inc. (third party suit - indemnification).

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:43 p.m.

CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION
BID SUMMARY
BID REQUEST NO. 420-94
PARKING CONTROL EQUIPMENT FOR THE CITY
OF ASHEVILLE CIVIC CENTER PARKING GARAGE

BID ITEM	CINCINNATI SYSTEMS INC. GREENVILLE, S. C.
1. 1 LOT - ACCESS CONTROL EQUIPMENT - CONSISTING OF CONSOLE; CARD READERS; PRINTER AND REGULATOR	
MATERIALS:	$10,350.00
MANUFACTURER:	AMANO - CINCINNATI
LABOR/INSTALLATION:	$790.00
2. 1 LOT - REVENUE CONTROL EQUIPMENT - CONSISTING OF COMPUTERS; TERMINALS; POWER SUPPLY; CASH DRAWER AND DISPLAY	
MATERIALS:	$25,480.00
MANUFACTURER:	AMANO - CINCINNATI
LABOR/INSTALLATION:	$2,450.00
3. 2 EA. - FACILITY/AUDIT COUNT SYSTEMS	
MATERIALS:	$4,953.00
MANUFACTURER:	AMANO - CINCINNATI
LABOR/INSTALLATION:	$1,040.00
4. 2 EA. - INTERCOM COMMUNICATION SYSTEMS	
MATERIALS:	$648.00
MANUFACTURER:	AIRPHONE
LABOR/INSTALLATION:	$200.00
TOTAL BID:	$45,911.00
TERMS:	NET 30 DAYS
DELIVERY:	30 to 45 DAYS A.R.O.
BID DEPOSIT:	5% OFFICIAL CHECK

THE FOLLOWING COMPANY SUBMITTED A 'NO BID': SOUTHERN TIME EQUIPMENT COMPANY, INC., CHARLOTTE, N. C.

THE FOLLOWING COMPANIES DIS NOT RESPOND TO BID: TIME & PARKING CONTROLS, GREENSBORO, N. C.; CINCINNATI TIMES, CINCINNATI, OHIO; WALKER BROTHERS, INC., LEXINGTON, S. C.; PON, INCORPORATED, RUSSELLVILLE, ARIZONA; TRAFFIC DIVISION BOTTOMS UP, ALTAMONTE SPRINGS, FLORIDA: AND ROSENBLATT & ASSOCIATES, CHARLOTTE, N. C.

32

Exhibit "A"

Tuesday - February 1, 1994 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF THE 1993 B*E*S*T AWARD TO RONNIE DAVIS

City Manager Farris was proud to recognize Ronnie Davis (Police Department) as the 1993 B*E*S*T award winner. He said that Ronnie Davis was originally nominated for volunteering his time to help raise funds for the North Carolina Special Olympics for the past two years. Ronnie spent many days sitting on top of the billboard on Patton Avenue in pouring rain, hot sun and cold weather. His dedication to this special cause has certainly not gone unnoticed by the community or his fellow co-workers.

Since the B*E*S*T Program began, Ronnie has been nominated several times. Ronnie is a terrific example of a B*E*S*T employee is. He not only expresses good customer relations skills during events such as the Special Olympics but also his daily activities as a police officers.

B. RESOLUTION NO. 94-26 - RESOLUTION SUPPORTING THE INTRODUCTION OF THE "LEARN NOT TO BURN" FIRE SAFETY EDUCATION PROGRAM IN ASHEVILLE PRE-SCHOOL PROGRAMS AND IN ASHEVILLE CITY ELEMENTARY SCHOOLS

Fire Chief John Rukavina said that in September, 1993, the National Fire Protection Association (NFPA-a national organization dedicated to fire safety) announced a competitive "Learn Not to Burn Champion" school fire safety education program. Asheville Fire applied. Asheville was one of 60 U.S. cities (out of a potential 25,000) selected as a "Learn Not to Burn Champion" city. "Learn Not to Burn Champion" status means that Asheville and the Asheville City School system will receive special support, training and materials in developing a "Learn Not to Burn" fire safety education program for Asheville's elementary schools. Buncombe County schools are also offering their support.

He recognized Asheville Fire Department's public fire safety educator Kintzley Carter, who is the Department's officially-designated "Champion." Mr. Carter prepared the Department's competitive application for the "Learn Not to Burn Champion" program.

Dr. Julia Capps, representative of the Asheville City Schools, thanked the Council for their support and spoke enthusiastically about the program.

Acting Fire Marshal Wayne Hamilton talked about this program being an excellent vehicle to teach children about fire safety.

Councilwoman Sitnick said that if the Council can help with materials, in a fairly cost effective manner, for the education process, to please let them know. She felt the smoke detector door hangers are an excellent tool to educate the public on the importance of smoke detectors.

Mayor Martin read the resolution.

Councilwoman Field moved for the adoption of Resolution No. 94-26. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 246

C. **RESOLUTION NO. 94-27 - RESOLUTION SUPPORTING THE DEVELOPMENT OF AN ACCESSIBLE COMMUNITY LIVING FACILITY WHICH PROVIDES A CONTINUUM OF SERVICES TO DEAF AND HARD OF HEARING CITIZENS**

Mayor Martin read the resolution stating that the City Council expresses and declares its total and unanimous support for "PROJECT - M.P.A.C.", to be located in Asheville, and serving Buncombe County. PROJECT - M.P.A.C. will build on the continuum of services provided by Independent Options, and be adjunct to the Montview Group Home. He expressed Council's support and commitment towards involving local governments, state agencies and private enterprises in cooperation to the fruition of said project. Further, Council encourages the cooperation and interest of other divisions of the State Department of Human Resource. The Council also extends its sincere appreciation to the Cunningham family, the Board of Directors of Independent Options, and additional individuals and agencies for their efforts to improve the quality of life for citizens who are developmentally disabled adults who are deaf and hard of hearing, and residing in Asheville and Buncombe County.

Mayor Martin recognized Charles Cunningham who has been instrumental in the development and support of specialized programs such as Montview, who spoke briefly about PROJECT - M.P.A.C.

Councilwoman Field moved for the adoption of Resolution No. 94-27. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 247

D. **PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 13-19, 1994, AS "CHILD PASSENGER SAFETY WEEK"**

Mayor Martin proclaimed the week of February 13-19, 1994, as "Child Passenger Safety Week" in the City of Asheville. He presented the proclamation to Sgt. Steve Oxner who spoke of the importance of child passenger safety.

E. **PROCLAMATION PROCLAIMING THE WEEK OF FEBRUARY 7-11, 1994, AS "TRAVEL AGENT APPRECIATION WEEK"**

Mayor Martin proclaimed the week of February 7-11, 1994, as "Travel Agent Appreciation Week" in the City of Asheville.

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO THE ADOPTION OF A STORMWATER MANAGEMENT ORDINANCE**

Mayor Martin opened the public hearing at 4:34 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris reported that this ordinance establishes a program for the installation of facilities to manage stormwater from certain new development in order to reduce the hazards from flooding. There will be a resolution which will adopt a "Stormwater Standards Specifications" manual that provides developers and property owners with requirements and guidelines for designing and building stormwater management facilities.

A task force established by City Council recommended that stormwater runoff in new development be controlled, and in the fall of 1993 Council directed staff to prepare a draft stormwater management ordinance. The recommended ordinance has been reviewed by various community groups involved in the land development process.

The ordinance applies to new development that creates impervious surfaces of greater than 50% of the site area or that encompasses more than five acres. Stormwater management facilities will be required to insure that the runoff from a storm will be as good or better than before the site was developed. The facilities must be designed to accommodate the runoff from a storm of 10 year frequency of 6 hours duration. The ordinance also provides for the ongoing inspection and maintenance of stormwater facilities.

To offset the City's costs for administration of the ordinance and the required annual inspections that insure adequate maintenance of detention and retention basins, adjustments to the Fees and Charges Manual will be recommended prior to the effective date of the ordinance. Those fees are currently recommended at $400 for the Stormwater Development Permit and $100 per year for inspections.

The companion manual, "Stormwater Standard Specifications," provides the requirements for design and construction of stormwater management facilities. The manual includes procedures for calculating the volume of runoff, design requirements for stormwater detention and retention basins to insure that they are adequate and safe, standards for design and installation of storm sewers, and design of open channels. This manual will be adopted by Council; the Stormwater Review Committee will be authorized to make minor changes to keep the manual up-to-date.

Both the ordinance and the design manual have been designed to complement existing development ordinances to the extent possible and not to require unreasonable review delays for property owners and subdividers. The engineering department is committed to completing the review of stormwater plan as quickly as possible.

Due to the complexity of stormwater management, it is recommended that the Council hold this public hearing, schedule a workshop on the ordinance for February 8, 1994, and schedule consideration of adoption on February 15, 1994.

The President of the Deerwood Homeowners Association supported the efforts made by Council relative to stormwater runoff. However, he felt we need stormwater control after the development is made and also some stormwater control while the development is being made. He felt the

biggest problem is silt and that the ordinance should not only require preventive measures, but some way of assessing those developers who put in a system that fails. The failed system subjects those residents downstream of having to spend time and money dredging their lake of silt from the failed system. He suggested some type of penalty be imposed equivalent of the damages plus any additional assessment to cover the City's expenses of enforcement. He felt the City needed to control the widespread of silt from new development. He also urged Council to make the effective date of the ordinance 30-60 days after adoption and have it apply to those developments which are now in progress.

Ms. Margaret Shook, Crowfields resident, illustrated with pictures the damage experienced at Crowfields caused by flooding from recent developments off of and above US 25, Hendersonville Highway. She felt that Crowfields and the surrounding area is a good example on what can happen when there is no stormwater regulation. She urged Council to adopt the ordinance to regulate all developments having a proposed impervious surface on completion of the development of greater than 30% of the total acreage development (not 50%). She said that Crowfields has already spent $50,000 in repairs to its creek banks.

Ms. Karen Cragnolin, Director of RiverLink, asked Council to take another look at the section relative to the City assuming the responsibility for maintenance of storm sewers once approved by the City Engineer and not assuming the responsibility for maintenance of open channels. She felt that this was in direct conflict with the Unified Development Ordinance and asked Council to assume the responsibility for maintenance of open channels too, once approved by the City Engineer.

Planning Director Julia Cogburn responded to Ms. Cragnolin's request by saying that typically open channels are more difficult and more time intensive to maintain.

Mr. Bob Mayhew, Greater Asheville Homeowners Association, said that his Association has not had sufficient time to review the ordinance and would probably have written comments at Council's worksession on February 8.

Ms. Barbara L. Tribelhorn, Crowfields resident, told Council about the fear she felt when she saw the floodwaters getting closer and closer to her home.

Mr. Walter Miller, Crowfields resident, urged Council to help the residents by adopting and enforcing the ordinance but reduce the impervious surface to 30% rather than the proposed 50%. He said that because of our topography, runoff will be a problem unless an ordinance is adopted and enforced.

Ms. Mary Louise Nelson, Crowfields resident, spoke about the damage done to her home when runoff occurs and felt that they shouldn't have to deal with the developer's mud from runoff.

Mr. Earl Shook, Crowfields resident, felt that something needed to be done not only for Crowfields, but for other areas in the City.

Ms. Helen Parks, Crowfields resident, urged Council to adopt the stormwater ordinance and briefed the Council on her own experiences with the runoff.

Mr. Don Bennett, Crowfields resident, asked Council to approve the ordinance as soon as possible.

Mr. Daniel Breen, Charlotte Street resident, urged Council to pass an ordinance soon and consider the environmental issues involved.

Mr. John Broadbooks, North Carolina landscape architect, agreed that there certainly is a need for a stormwater management ordinance. However, he said he didn't have confidence in this ordinance simply because it was not based upon a comprehensive hydrologic master plan for Asheville and it's not tied into the Unified Development Ordinance. He passed out to Council a letter in which he outlined his questions. Overall he felt the Council was headed in the right direction.

Mr. H. K. Edgerton questioned whether the City had considered the issue of privatization. Mayor Martin responded that it's too early in the process to look at that angle, but when information becomes available, Council will share it with the entire community.

Ms. Barber Melton, Chairman of the Planning and Zoning Commission, spoke about how closely the Planning and Zoning Commission looks at all new developments as it relates to stormwater runoff. She wanted to make sure the ordinance is enforceable. She answered Council's questions concerning bonds versus utility fees.

Mr. Robert Weast, Crowfields resident, briefed Council on how he felt seeing the raging water head towards his house. He read a statement asking Council to take into account that different drainage systems have different capacities. Therefore, the ordinance should be based upon a numerical ratio of the capacity of the drainage system to the increased volume of the stormwater runoff being discharged into the system as a result of impervious surfaces being added in that drainage area. An ordinance based solely on developments larger than five acres or in which an impervious surface is greater than 50% is not fair to either the residents or businesses in a drainage area nor to the developers who want to develop in that area.

Mr. Kenneth Miller, Crowfields resident, spoke about his experience during the heavy rain and hoped Council would reduce the impervious surface from 50% to 30%.

Mr. Irving Randolph, Crowfields resident, was concerned about development runoff onto his property.

Ms. Jean Webb, Chairman of RiverLink, commented that as we work toward revitalizing the river we need to remember that runoff is pollution in the river. She felt that a natural runoff with a filtration system is a less expensive and certainly more filtration for pollution into the river than a concrete ditch. She felt that since the City is mandated to do this, we should do it right and not leave these problems for our children and grandchildren to deal with.

In response to questions raised by Vice-Mayor Peterson, Public Works Director Jim Ewing said that the State did all the work on Hendersonville Road and they did do some work regarding stormwater runoff. Unfortunately, from a City standpoint, it created a worse problem in certain areas because it concentrated the runoff and put it into the natural runs quicker. He said that under our street and sidewalk bond program, the City is looking at the storm drainage under the streets and where it fails, we are correcting it.

Upon inquiry of Councilwoman Sitnick, Mr. Ewing said that 1995-96 is the latest target date for the EPA mandate.

Councilwoman Sitnick encouraged the Council to stick with the effective date of July 1 because delays will only cost the City more down the line. She also felt that the Council will need to address the issue of money that is designated for projects only be used for those projects and not other projects.

Mayor Martin said that the Council will consider the input from citizens and staff and will hold a worksession on this matter on February 8.

Mayor Martin closed the public hearing at 5:47 p.m.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS: None

V. CONSENT:

A. **RESOLUTION NO. 94-28 - RESOLUTION APPROVING REVISED AGREEMENT BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE CITY OF ASHEVILLE FOR DISBURSEMENT AND ACCOUNTING OF PLANNING FUNDS APPROPRIATED UNDER SECTION 104 (f) OF TITLE 23 UNITED STATES CODE**

Summary: The City has been the Lead Planning Agency for the urban area since the inception of the Metropolitan Planning Organization. Throughout, a planning legislation agreement has been in effect. This document details the relationship between the City and NC DOT in regard to transportat. planning and the use of state and federal dollars made available to the City via the agreement. The relationship between the City and NC DOT has not changed. The revised agreement is presented in order to better reflect recent changes in federal regulations, namely the Intermodal Surface Transportation Efficiency Act.

RESOLUTION BOOK NO. 21 - PAGE 248

B. **RESOLUTION NO. 94-29 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS CONVEYING RIGHT-OF-WAY AND DRAINAGE EASEMENT TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

Summary: NC DOT is engaged in plans for the widening of Broadway and the plans require the acquisition of a fee simple right-of-way and a permanent drainage easement by NC DOT across property owned by the City located at the southwestern corner of the intersection of Catawba and Broadway. NC DOT has offered to pay the City $7,900 in exchange for the right-of-way and easement. Authorization is subject to final approval of the design of the Broadway Improvement Project by the City Council and NC DOT.

RESOLUTION BOOK NO. 21 - PAGE 249

C. **RESOLUTION NO. 94-30 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 1 TO LEASE NO. DTFA06-L-88-10670 WITH THE FEDERAL AVIATION ADMINISTRATION**

Summary: The Federal Aviation Administration ("FAA") operates a field office adjacent to the Asheville Regional Airport. The FAA field office has for several years been located in a building of approximately 1,152 square feet which is owned by the City of Asheville. The current lease expired September 30, 1993, and the City and the FAA desire to enter into Supplemental Agreement No. 1 to Lease No. DTFA06-L-88-10670

in order to allow both parties time to negotiate a new lease. This resolution will authorize the Mayor to execute Supplemental Agreement No. 1 to Lease No. DTFA06-L-88-10670 with the FAA for a lease term expiring March 31, 1994.

RESOLUTION BOOK NO. 21 - PAGE 250

Councilwoman Field moved to adopt the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. REQUEST BY CHAMBER OF COMMERCE

Mr. Richard Stiles, Economic Development Specialist for the Asheville Area Chamber of Commerce, asked for a volunteer to accompany the Chamber to the Medical Device Manufacturer's Exposition in Fort Lauderdale, Florida, during the week of February 23-25, 1994, in order to assist them in their recruitment efforts.

Vice-Mayor Peterson moved to send Mayor Martin on this trip. This motion was seconded by Councilman Swicegood and carried unanimously.

B. RESOLUTION NO. 94-31 - RESOLUTION EXPRESSING APPRECIATION TO RIVERLINK AND ACCEPTING DONATION

City Manager Farris read the resolution stating that RiverLink has provided leadership in the development of the Riverfront Plan for the French Broad River. He said RiverLink has been a key partner with the City in the development of the French Broad Riverfront by preparing and submitting applications for grants and by raising funds for river development projects.

Ms. Karen Cragnolin, Director of RiverLink, thanked the Council and other City staff for their support. She briefed the Council on the program "Fall in Love with the French Broad" that was held in October of 1993 and gave the Council a list of all the merchants who supported RiverLink through their donation to the silent auction. She was pleased to present to the City Council a check in the amount of $10,000 for further development of the French Broad River Park. She also stated that she would be presenting a $30,000 check to the City for the building of the canoe and kayak practice course on the French Broad River.

Mayor Martin expressed Council's appreciation and support for RiverLink and its mission of increasing the recreational and commercial use near the French Broad River. He accepted a donation of $10,000 from RiverLink for further development of the French Broad River Park and looked forward to receiving the $30,000 for the practice course.

Councilwoman Field moved for the adoption of Resolution No. 94-30. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 251

C. MOTIONS TO RESCHEDULE PUBLIC HEARINGS

Councilwoman Sitnick moved to reschedule the public hearing regarding political signs and the public hearing to rezone 68 and 76 Acton Circle from February 8, 1994, to February 15, 1994. This motion was seconded by Councilman Swicegood and carried unanimously.

Vice-Mayor Peterson moved to reschedule the continuation of the public hearing relative to cable television rates from February 22, 1994, to February 15, 1994, and also to reschedule the advertisement from February 11, 1994, and February 18, 1994, to February 4, 1994, and February 11, 1994. This motion was seconded by Councilman McClure and carried unanimously.

D. RESOLUTION NO. 94-32 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

City Manager Farris said that Bruce Johnson has resigned from the Historic Resources Commission. This resolution will appoint Betty Lawrence to fill an unexpired term, term to expire July 1, 1995, or until her successor has been duly appointed and qualified.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-32. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 252

E. RESOLUTION NO. 94-33 - RESOLUTION APPOINTING A MEMBER TO THE VICTORIA OF ASHEVILLE BOARD OF DIRECTORS

City Manager Farris said that Dorothy Maitland has resigned from the Victoria of Asheville Board of Directors. This resolution will appoint Robin Clontz to fill an unexpired term, term to expire November 29, 1994, or until his successor has been duly appointed and qualified.

Councilman McClure moved for the adoption of Resolution No. 94-33. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 253

F. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop spoke to Council about accountability of City government to the citizens of Asheville.

G. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of January 17-21, 1994: Gretchen L. Hall (Police), Randall Barnett (Inspections), Alex Goulart (Streets), D. W. Gailey (Water), James Phillips (Streets), Bill Studenc (Water), A.N. Christiansen (Sanitation), Nancy J. Thomas (Civic Center), and Ken Forrest (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:10 p.m.

CITY CLERK

MAYOR

Tuesday - February 15, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. **RESOLUTION NO. 94-34 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE NANCY CLARKE**

City Manager Farris read the resolution stating that Nancy Clarke has been an employee for seven years and has requested retirement from her position as Recreation Center Director II. He expressed City Council's appreciation to Nancy for her service to the City of Asheville and its citizens.

Resolution No. 94-34 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 254

B. **RESOLUTION NO. 94-35 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE LEE PRUETT JR.**

Mayor Martin read the resolution stating that Lee Pruett Jr. has been an employee for 20 years and has requested retirement from his position as Sanitation Area Supervisor. He expressed City Council's appreciation to Lee for his service to the City of Asheville and its citizens.

Resolution No. 94-35 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 255

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING RELATIVE TO AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS**

ORDINANCE NO. 2076 - ORDINANCE AMENDING SECTION 30-9-3D.6. OF THE CODE ORDINANCES REGARDING POLITICAL SIGNS

Mayor Martin opened the public hearing at 4:14 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn summarized and explained the proposed amendments as follows: (1) elimination of the restriction of two signs per lot; (2) allowing signs for up to forty-five (45) days prior to a general election, rather than thirty (30) days and (3) clarification that the

time limitations found in the zoning ordinance do not apply to billboards. She stated that this section of the ordinance would be enforced like any other section in the zoning ordinance, i.e., through the Code Enforcement Division.

Councilwoman Sitnick encouraged citizens to remove the signs as soon as possible after the election.

Mayor Martin closed the public hearing at 4:19 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2076. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2076 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 127

B. **PUBLIC HEARING TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL**

ORDINANCE NO. 2077 - ORDINANCE TO REZONE 68 AND 76 ACTON CIRCLE FROM NC NEIGHBORHOOD COMMERCIAL TO CH COMMERCIAL HIGHWAY, WITH THE EXCEPTION OF A 20 FOOT WIDE STRIP RUNNING ALONG ACTON CIRCLE WHICH SHALL REMAIN ZONED NC NEIGHBORHOOD COMMERCIAL

Mayor Martin opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Carol Pennell, Urban Planner II, said the two lots in question (PIN Nos. 9617-11-66-6973 and 9617-11-66-4779) are currently zoned NC Neighborhood Commercial but utilized as residential, with single-family detached structures. Located at the sharp corner of Acton Circle, these lots were zoned NC Neighborhood Commercial in 1991 by Council as part of the E.T.J. expansion in the west of Asheville. The Planning and Zoning Commission recommended the rezoning from NC Neighborhood Commercial District to CH Commercial Highway District, with the exception of a 20 foot wide strip immediately adjacent to and extending parallel to Acton Circle, which 20 foot strip would remain zoned NC Neighborhood Commercial District. She stated the Planning & Zoning Commission's intent by leaving the 20 foot strip was to limit access onto Acton Circle, thus alleviating traffic and safety concerns.

Mr. Jim Edmonds, attorney representing Frances Ball, spoke in support of rezoning both properties CH Commercial Highway and not leaving the 20 foot strip zoned NC Neighborhood Commercial. He asked for the same treatment as all the other businesses in the vicinity have, i.e., access on Acton Circle and Highway 19-23. He said that the plan is to combine these two properties (his clients and the Doug Thrash's property) with the property which presently fronts Highway 19-23 (owned

by Doug Thrash). He stated that the main access would be off of Highway 19-23. He said that the two out of the three people who spoke in opposition of the total rezoning to CH were by individuals who did not live on Acton Circle. He asked Council to allow one access onto Acton Circle (with some modifications) that would benefit both pieces of property.

Ms. Pennell responded to Councilman McClure's questions relative to the inconsistency of zoning around the Acton Circle/Monte Vista area. She also responded to questions regarding what uses are permitted in a NC Neighborhood Commercial District and the need for a transitional zone.

Mr. Doug Trash, owner of one of the properties being requested to be rezoned, spoke of the need to rezone these properties CH Commercial Highway and echoed some of Mr. Edmonds' remarks. He also asked Council to allow one access onto Acton Circle that would benefit both pieces of property.

Mr. Bill Best, resident of 35 Acton Circle and the third person who spoke in opposition of the total rezoning to CH Commercial Highway, stated that he and three other property owners on Acton Circle now are not opposed to the total rezoning to CH Commercial Highway.

Mr. W. C. Johnson spoke in favor of the total rezoning to CH Commercial Highway.

Ms. Jan Moore, resident on Monte Vista Road, asked Council to keep the 20 feet strip zoned NC Neighborhood Commercial in order to keep additional traffic off of Acton Circle.

City Attorney Slawter pointed out to the Council that if a shopping center were built on the site with CH zoning and an NC buffer strip along Acton Circle, that the zoning ordinance might prevent some stores in the shopping center from having vehicular access to Acton Circle while allowing other stores to have access.

Mayor Martin closed the public hearing at 5:10 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2077, which will rezone the two properties described above CH Commercial Highway, with the exception of a 20 foot wide strip immediately adjacent to and extending parallel to Acton Circle, which 20 foot strip would remain zoned NC Neighborhood Commercial District. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 4-3, Ordinance No. 2077 passed on its first reading, with Councilwomen Field and Sitnick and Councilman McClure voting "no".

Vice-Mayor Peterson moved to suspend the rules and proceed to the second and final reading of Ordinance No. 2077. This motion was seconded by Councilwoman Sitnick and carried unanimously.

On a roll call vote of 5-2, Ordinance No. 2077 passed on its second and final reading, with Councilwoman Field and Councilman McClure voting "no".

C. **CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER**

RESOLUTION NO. 94-36 - RESOLUTION ISSUING ORDERS REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE

City Attorney Slawter said that this is a continuation of a public hearing opened on December 14, 1993. He then reviewed the background surrounding this matter by saying that on December 22, 1993, TCI filed its rate schedule with the City of Asheville. However, due to the late submittal of the rate schedule by TCI, the Council continued its public hearing until this date. TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards. The FCC Form 393 submitted by TCI to the City of Asheville indicates that its current rate for basic service tier in the amount of $9.77 exceeds the maximum rate permitted by the FCC for basic service tier in the amount of $9.55. The FCC Form 393 submitted by TCI to the City of Asheville indicates that its charges for basic service tier installations all exceed the amount permitted by the FCC for those charges. The FCC Form 393 submitted by TCI to the City of Asheville also shows that its current rate for cable programming service tier in the amount of $11.17 exceeds the maximum rate permitted by the FCC for cable programming service tier in the amount of $10.91.

He said the resolution before the Council reads that (1) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.940, the City of Asheville hereby orders TCI to implement a reduction in basic service tier and associated equipment rates to bring them into compliance with the standards set forth in 47 C.F.R. secs. 76.922 and 76.923; (2) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.941, the City of Asheville hereby determines that the rates for basic service tier and associated equipment currently charged by TCI and set forth on FCC Form 393 submitted by TCI are unreasonable in that they exceed the maximum rates permitted by FCC standards. The City of Asheville further prescribes the permitted rate of $9.55 as a reasonable rate for the basic service tier and hereby prescribes as reasonable charges for basic service tier installations those charges shown under the "Permitted" column on page 2 of Part I of the FCC Form 393 submitted by TCI to the City of Asheville; (3) in that TCI has not submitted a cost-of-service showing which would justify a rate schedule other than that permitted under FCC standards and, pursuant to 47 C.F.R. sec. 76.942, the City of Asheville hereby provides notice to TCI that it intends to order TCI to refund to subscribers previously paid rates for basic service tier and charges for related equipment, installation and service to the extent that the previously paid rates and charges exceed the rates and charges permitted by FCC standards. The City of Asheville intends to order a refund for the period from the date TCI implements the prospective rate reduction ordered in Section 1 above back in time to September 1, 1993, with interest on the refunds computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments. In that 47 C.F.R. sec. 76.942 requires that the City of Asheville give TCI notice and opportunity to comment on this order of refund, the City of Asheville hereby continues

this public hearing until March 1, 1994, for the purpose of receiving comment on the order for refund; and (4) in that the rates for cable programming services currently charged by TCI exceed those permitted by FCC standards and in that 47 C.F.R. sec. 76.950 provides that franchising authorities may file with the FCC a complaint challenging the reasonableness of a cable operator's rate for cable programming service, the Asheville City Council hereby directs the City Manager to file FCC Form 329 to challenge the reasonableness of the rates charged by TCI for cable programming service.

Mr. Julian Price, resident on Battery Park Avenue, asked Council to urge TCI Cablevision to furnish cable services to his area in downtown.

When Councilwoman Sitnick questioned whether the 1968 franchise could be re negotiated in order to be more favorable for the City, Mr. Dan Martin, General Manager of TCI Cablevision, said that he would be open to discuss that with City officials. Mayor Martin instructed the City Manager to arrange that meeting.

Mr. Martin responded to Council's questions as they related to why some areas in the City has cable and why some don't. He stated that Buncombe County has adopted TCI Cable's Form 393 and hoped the Council would do the same.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-36. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 256

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF THE BROADWAY WIDENING PROJECT

Councilwoman Field reported that the Transportation Advisory Commission ("TAC") meeting has been rescheduled until February 28, 1993. She said that at the special meeting of the TAC earlier in February, the Broadway Improvement Project group wanted to meet with NC DOT officials before the City Council dealt with this issue. That meeting has been scheduled for Wednesday, February 16, 1994. Therefore, Councilwoman Field said that she would introduce a motion at the end of this meeting to recess this Council meeting and reconvene on Tuesday, February 22, 1994, at 2:00 p.m., in the Civic Center in the old Art Museum space to deal with the issue of the Broadway Widening Project.

B. FIRST READING OF THE STORMWATER MANAGEMENT ORDINANCE

Councilman McClure moved to postpone the first reading of this ordinance until March 22, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

C. RESOLUTION AUTHORIZING INSTALLATION OF SIDEWALKS ON HAYWOOD STREET

City Manager Farris asked that this resolution be tabled.

At the request of City Manager Farris, Councilwoman Field moved to have the City Manager come back to the Council with a City policy on

public improvements in downtown so Council wouldn't have to deal with these issues on a case by case basis. This motion was seconded by Councilwoman Sitnick and carried unanimously.

IV. NEW BUSINESS:

A. **ORDINANCE NO. 2078 - ORDINANCE AMENDING THE REPRESENTATION ON THE ASHEVILLE DOWNTOWN COMMISSION**

City Attorney Slawter said that the Buncombe County Board of Commissioners have requested that their representation on the Asheville Downtown Commission be eliminated and that in place of that representation, the Board of Commissioners appoint two members to the Asheville Downtown Commission.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2078. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2078 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 130

B. **BIDS RELATIVE TO AWARDING 14 VEHICLES CONSISTING OF 1 MINI VAN, 2 UTILITY TYPE TRUCKS AND 11 TRUCKS (VARIOUS SIZES)**

City Manager Farris asked that Council delete the seven passenger mini-van in the amount of $13,649 from the bid summary. He said that the mini-van deletion would reduce the total bid award to $262,873.80. He then summarized the bid awards as follows: Matthews Ford Inc. in the amount of $140,991.80, Parkway Chevrolet Inc. in the amount of $31,905.00, Carolina Truck and Body Company in the amount of $42,769.00, and MAP Enterprises Inc. in the amount of $47,208.00. A complete copy of the bid summary is attached hereto as Exhibit "A".

Upon inquiry of Councilman Swicegood, Parks and Recreation Director Ray Kisiah said that the aerial bucket truck is for tree trimming and this new one will replace the truck which is now 12-14 years old.

Councilman Swicegood asked the City Manager for a report on why the City's vehicle fleet has increased by 100 over the past 6 years.

Councilwoman Field moved to authorize bids be awarded as follows: Matthews Ford Inc. in the amount of $140,991.80, Parkway Chevrolet Inc. in the amount of $31,905.00, Carolina Truck and Body Company in the amount of $42,769.00, and MAP Enterprises Inc. in the amount of $47,208.00. This motion was seconded by Councilman Watts and carried unanimously.

C. **ORDINANCE NO. 2079 - BUDGET AMENDMENT TO SET UP THE APPROPRIATION OF THE ENTIRE BUDGET FOR THE WEST CHAPEL ROAD PARK**

City Manager Farris said that this budget amendment, in the amount of $168,090, includes the change order for the sewer line relocation ($51,089.41), appropriations for fencing, lighting, parking, ADA

requirements, bleachers, dugouts, landscaping and other incidentals. He then asked Parks and Recreation Director Ray Kisiah to show the Council the site plan for the project and explain Phase 2 of the Park which will require additional appropriations.

Mr. Kisiah explained that the Biltmore School was the site of the South Asheville Little League. After the sale of this property to a private individual, the County furnished the funds (approximately $337,000) for the purchase of 37 acres and the City agreed to develop the park area. $306,000 has previously been appropriated to cover the cost of grading and preparing the site. He said the $168,090 will begin the process and cover the cost of engineering charges, fencing, backstops, lighting, stone for access road and parking area, funds for ADA access and that landscaping which is required by City ordinance. Additional funds which will be required next year in the amount of approximately $300,000 will include the construction of toilet facilities/concession stand, paving of access road, and off-street parking area, scorer's stand and storage building, additional bleachers, dugouts, signage, and additional landscaping. He felt the toilet facilities and concession stand will cost approximately $125,000 out of the $300,000. He then showed the Council the layout of the park itself.

Upon inquiry of Councilman Swicegood, Mr. Kisiah estimated an additional $300,000 to finish the project.

Mr. Kisiah said that a Phase 3 of the project, on the remaining 12 acres, could be developed into one combination Babe Ruth/soccer field for an additional $400,000. This amount would include the grading, fencing, lighting and extension of the road back to the field.

Mr. Kisiah answered questions raised by Vice-Mayor Peterson as they related to the floodplain area and the uses permitted on that area.

Councilwoman Sitnick stated outright that she was not opposed to little league. She felt that it was real important that the City begin to estimate up front the costs more accurately so the Council doesn't have to deal with these kinds of additional costs down the line.

Councilwoman Sitnick asked what the sale price was and what will be spent on this field. Mr. Kisiah responded that the property sold for $1.2 million and it was his opinion at that time that it would take approximately $1 million to replace the facilities that we had at Biltmore School. He said that the County participated by spending $337,000 for the land purchase.

Councilwoman Sitnick asked whether the City was taking into consideration the stormwater regulations relative to this park. She suggested not paving the whole area and leaving some gravel or possibly the use of pervious materials for paving since the area already was in a floodplain zone. Mr. Kisiah stated that the $306,000 already spent for grading and site preparation did provide for adequate piping to take care of stormwater runoff and he said that he would be willing to look into the other suggestions, but a cost factor of maintenance would need to be carefully considered.

Planning Director Julia Cogburn answered questions from Councilman McClure regarding variances in the floodplain area.

Councilwoman Sitnick asked how much has been spent on ballfields by the City. Mr. Kisiah responded that very little money has been spent

on the development of ballfields because the funds that the City used were from federal grants.

Councilwoman Field stated that she thought the original arrangement with the City and County on this Park was to be a 50/50 split.

Vice-Mayor Peterson echoed Councilwoman Field's comments on the 50/50 split arrangement and felt that he was mislead from the beginning since the County has only contributed $337,000 for the land and the City is having to spend approximately $800,000 for the replacement of the facilities. He said that the $800,000 figure doesn't include the additional $400,000 if the City chooses to build a combination Babe Ruth/soccer field on the remaining 12 acres.

Mr. Kisiah responded that he felt that unrealistic figures and expectations on construction played a big part in this project. He explained that the County originally said that they would pay $250,000 and build the complex. He said that if the City were to maintain a ballfield built for $250,000, the City would spend four times that amount in just maintaining it. He also mentioned that just the grading and site preparation contract alone was $306,000. When he approached County Manager Bill McElrath about these figures, Mr. McElrath responded that the County did provide the money for the land and it now it is a City program.

Vice-Mayor Peterson and Councilman Swicegood questioned where the breakdown in the 50/50 split occurred since they were told by former City Manager Doug Bean that this project would be a 50/50 City/County project.

City Manager Farris said that he would check to see if there was an agreement of a 50/50 split and then talk to the County Manager. However, in speaking briefly with Mr. McElrath earlier, it was Mr. McElrath's understanding that the County's role in this was to buy the land and that the City would do the development.

When Councilwoman Field asked for a possible delay in this matter to get more information, Mr. Kisiah responded that with action today on the $168,090, the field can be ready on May 1 when the season actually begins. However, if Council delays action for two weeks, the field cannot be ready until June 1.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2079. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2079 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 132

D. **ORDINANCE NO. 2080 - BUDGET AMENDMENT TO INCREASE APPROPRIATIONS IN THE RIVER PARK PROJECT TO ACCEPT THE ADDITIONAL $10,000 CONTRIBUTION FROM RIVERLINK**

City Manager Farris said RiverLink has donated $10,000 to the City of Asheville for further development of the French Broad River Park. This action will permit these funds to be placed in the proper accounting category for them to be used in the development of this park.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2080. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2080 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 134

E. ORDINANCE NO. 2081 - BUDGET AMENDMENT TO SET UP AN APPROPRIATION FOR CONSTRUCTION OF KAYAK/CANOE COURSE ON THE FRENCH BROAD RIVER

City Manager Farris said RiverLink has secured a grant from the State of $30,000 in order to construct a canoe/kayak whitewater course on the French Broad River. This action is necessary to specifically appropriate the funds from this grant to this project. He said that an additional amount of approximately $100,000 will be necessary to be raised from local funds by RiverLink before this project can become a reality.

Upon inquiry of Councilwoman Sitnick, City Manager Farris said that if RiverLink cannot raise the additional $100,000, the Council may be in a difficult position of having to appropriate more money because the City has a $30,000 grant for the project and it's difficult to stop a project once it's begun.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2081. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2081 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 136

F. RESOLUTION NO. 94-37 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH PERRY M. ALEXANDER CONSTRUCTION COMPANY FOR THE GRADING AND SITE IMPROVEMENT WORK FOR BALLFIELDS ON WEST CHAPEL ROAD

City Manager Farris said that there is a sewer line currently located through the area where the West Chapel Road ballfields will be constructed. This sewer line needs to be replaced. The City has determined that the best method for the necessary replacement of this sewer line is to amend the current contract with Perry M. Alexander Construction Company to include the replacement of this sewer line as required by the Metropolitan Sewerage District. This change order is in the amount of $51,089.41.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-37. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 260

APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON JANUARY 25, 1994, AND FEBRUARY 1, 1994

At the request of Mr. Ralph Bishop, Mayor Martin removed the approval of the minutes of the regular City Council meetings held on January 25, 1994, and February 1, 1994, from the Consent Agenda in order to discuss them.

Mr. Ralph Bishop read a portion of the State law relative to full and accurate minutes being kept and open for inspection by the public. He said that his statements were not in the minutes of the January 25, 1994, nor the February 1, 1994, meetings.

Deputy City Clerk Maggie Burleson responded that she does not transcribe the City Council minutes verbatim.

City Attorney Slawter said it was his opinion that State law did not require verbatim minutes of Council meetings. He further stated that full and accurate minutes should include any action taken by Council and those must be recorded in the minutes, not everything said in a meeting.

Mayor Martin said that tapes of Council meetings are available for the public to listen to and they are kept for one year.

Mr. Bishop then read another State law relative to inspection and examination of records. He specifically wanted to know how he could get a copy of a certified tape recording of a meeting. City Attorney Slawter responded that certainly a copy of a tape can be made, but was unsure of exactly how someone could certify the tape as a true copy, given the nature of tapes and their adaptability for change after having been certified. He said that he would look into this question.

Councilman Swicegood moved to approve the minutes of the regular meetings held on January 25, 1994, and February 1, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

V. CONSENT:

A. **RESOLUTION NO. 94-38 - RESOLUTION AUTHORIZING THE INSTALLATION OF VARIABLE RATE PARKING METERS ON HAYWOOD STREET**

Summary: A request has been made by merchants on Haywood Street for the installation of meters. This request is supported by the Downtown Association's Issues Committee and the Downtown Commission. Meters to be installed are in current inventory. Cost would be limited to the installation of poles - a cost of $594 ($22 per pole x 27 poles) which can be paid out of the Parking Division's equipment budget. This expense would be quickly recovered by revenue generated from the meters.

RESOLUTION BOOK NO. 21 - PAGE 261

B. **RESOLUTION NO. 94-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY IN SUPPORT OF AN OLDER ADULT VICTIM OF CRIME SERVICES PROGRAM**

Summary: The Police Department is applying for a 12-month grant to support implementation of a project providing victim services to all elderly crime victims. Costs are shared between the City ($4,941) and the N.C. Department of Crime Control and Public Safety ($9,175).

RESOLUTION BOOK NO. 21 - PAGE 262

C. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO ZONE SECTION III OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT

D. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE 8 LOTS IN THE VICINITY OF THE INTERSECTION OF HAZEL MILL ROAD AND LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT (PLANNING & ZONING COMMISSION RECOMMENDED REZONING TO OI OFFICE INSTITUTIONAL DISTRICT)

E. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE THREE LOTS NEXT TO 185 BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

F. MOTION SETTING A PUBLIC HEARING FOR MARCH 1, 1994, TO REZONE 59 WEST OAKVIEW ROAD FROM LI LIGHT INDUSTRIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT

Councilman McClure moved to approve the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Mike Matteson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on February 2, 1994:

CLUBHOUSE CONDOMINIUMS

Mr. Matteson said that Elbert Brown, Jr., is requesting approval for the Clubhouse Condominiums, a 12-unit residential project to be located in the northwest corner of the Asheville Racquet Club property. The Asheville Racquet Club is located off Hendersonville Road, with access to the project site provided by Racquet Club Drive, a private road. The 0.88 acre project site is zoned R-3 and the proposed development complies with all requirements of the City's zoning ordinance. Three buildings, each containing 4 units, are proposed for the development. The buildings will be two stories tall. Availability of water and fire protection has been approved for the project. Approval of a sewer allocation for the project has been delayed by the construction of a new sewer line along Hendersonville Road. Concern was expressed by an adjacent property owner regarding potential traffic problems at the intersection of Racquet Club Road and Hendersonville Road.

Following the review of the site plan on February 2, 1994, the Planning and Zoning Commission voted unanimously to approve the project with one condition: Receipt of a letter from MSD approving a sewer allocation for the project.

Upon inquiry of Councilwoman Sitnick about stormwater development regulations, Planning Director Julia Cogburn said that the City can't require developers to meet those regulations at this time, however, some developers already addressing stormwater runoff.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

THE SUMMIT/INN AT THE RIDGE

Mr. Matteson said that the Summit/Inn at the Ridge is proposing the Phase II development of the retirement community located at 100 Riceville Road, adjacent to the VA Hospital. Mountain Health Services, Inc., is the developer of the project. A site plan for the development was approved by the City in January, 1993. This approval has lapsed and the developers have revised and resubmitted plans for Phase II of the project. Phase II consists of a three-story, 35,600 sq. ft. building which will house 60 catered living units.

The site area for this phase of the project is 1.9 acres and is zoned Office Institutional. Surrounding property is owned by the federal government and the proposed building is adequately buffered from surrounding land uses. Parking and landscaping required by the City will be provided as part of the development. The project has received a wastewater allocation from MSD, but approval of water availability and fire protection has not been received. There was no public opposition to the project.

Following review of the plans on February 2, 1994, the Planning and Zoning Commission voted unanimously to approve the plans with the following conditions:

1. Receipt of a letter confirming the availability of water; and

2. Receipt of a letter confirming the availability of fire protection.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 94-40 - RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE A GRANT APPLICATION WITH THE N.C. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY IN SUPPORT OF A FEAR REDUCTION THROUGH COMMUNITY POLICING PROGRAM

City Manager Farris said that the Police Department is seeking federal funding to support the implementation of community policing in the City which will entail the hiring of five police officers. The grant period is for 24 months beginning July of 1994. The Fiscal Year 1994-95 local match is $69,908 (federal share $209,725) and the fiscal year 1995-96 local match is $60,032 (federal share $180,097).

He said that there might be some long range budget repercussions because after the grant money runs out, the City will need to consider keeping those five additional officers on the payroll.

Councilman Watts thought this program will be very effective for the City.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 93-40. This motion was seconded by Councilwoman Sitnick and carried unanimously.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of January 24-28, 1994: Judy Ann Worley (Water), Debra Jennings (Civic Center), Bonnie Smith (Water), Thomas Blair (Streets), Hank Komodowski (Water), Forrest London (Streets) and Betsy Ball (Water).

He said that the following claims were received by the City during the week of January 31 - February 4, 1994: Paul Korth (Water), Howard Lamont (Streets), Garland Roberts (Streets), Angeline McKinney (Water), Michael Hare (Water), Megan Johnson (Water), Joyce Lance (Water) and Phillip and Kathie King (Streets).

He also stated that the following claims were received by the City during the week of February 7-11, 1994: Chris Pulliam (Water), Wade Faulkner (Water), Ed Siler (Fire), Ron Davis (Water), Barbara Brank (Water), Floyd Jay Shelton (Water), Melissa Garrison (Water) and Colleen Baldwin (Parks).

He said that these claims would be referred to the appropriate insurers for investigation.

D. LAWSUIT

City Manager Farris said that the City was served with a lawsuit on February 9, 1994, from Sharon Maxwell (Personal Injury).

He said that this has been referred to the appropriate legal counsel for action.

E. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop questioned Council's Rules and Procedures as they related to ordinances being read when requested by the public.

VII. RECESS:

At this time, 6:05 p.m., Councilwoman Field moved to recess this meeting to reconvene on Tuesday, February 22, 1994, at 2:00 p.m. in the Asheville Civic Center in the old Art Museum space to take up the issue of consideration of the Broadway Widening Project. This motion was seconded by Councilwoman Sitnick and carried unanimously.

William D. Wolcott, Jr.
CITY CLERK

MAYOR

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BID SUMMARY — CITY OF ASHEVILLE PURCHASING DIVISION — BID OPENED: FRIDAY, JANUARY 21, 1994 3:00 P.M.

BID REQUEST NO. 423-94 — AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, NC	PARKWAY CHEVROLET ASHEVILLE, NC	CAROLINA TRK. & BODY ASHEVILLE, NC	MAP ENTERPRISES BURLINGTON, NC	BAKER EQPT. ENG. RICHMOND, VA
1. (1) Seven Passenger Mini Van for the Engineering Department	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	Aerostar Wagon	CM10906			
	AMOUNT:	$13,648.00	$14,498.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
	EPA MPG CITY:	17	16			
	ENERGY EFF. COST* (EA)	$17,178.41	$18,248.00			
2. (1) 4-Wheel Drive, 4-Door Utility Type Truck for the Fleet Management Div.	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$20,247.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF. COST* (EA)	$24,247.00				
2.A. (1) 4-Wheel Drive, 2-Door Utility Type Truck for the Fleet Management Div.	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$19,478.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF. COST* (EA)	$23,478.00				
3. (1) 4-Wheel Drive, 2-Door Utility Type Truck for the Street Division	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$19,189.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF. COST* (EA)	$23,189.00				

Item 1. deleted by Council on 2-15-94

Exhibit "A"

BID REQUEST NO. 423-94 — AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, NC	PARKWA CHEVROLET ASHEVILLE, NC	CAROLINA TRK. & BODY ASHEVILLE, NC	MAP ENTERPRISES BURLINGTON, NC	BAKER EQPT. ENG. RICHMOND, VA
4. (1) 1/2 Ton Heavy Duty Pickup for the Parks and Recreation Dept.	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	F-150	CC10703			
	AMOUNT:	$10,175.00	$10,529.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
	EPA MPG CITY:	15	17			
	ENERGY EFF. COST* (EA)	$14,175.00	$14,058.41			
5. (2) 1/2 Ton Heavy Duty Pickup Truck for the Parks and Recreation Department	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	F150	CC10903			
	UNIT COST:	$10,539.00	$10,688.00			
	AMOUNT:	$21,078.00	$21,376.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
	EPA MPG CITY:	15	17			
	ENERGY EFF. COST* (EA)	$14,539.00	$14,217.41			
6. (2) 1/2 Ton Heavy Duty Pickup Truck for the Engineering Department .	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	F-150	CC10703			
	UNIT COST:	$10,798.00	$11,422.00			
	AMOUNT:	$21,596.00	$22,844.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
	EPA MPG CITY:	15	17			
	ENERGY EFF. COST* (EA)	$14,798.00	$14,951.41			
7. (1) 3/4 Ton Heavy Duty Cab & Chassis with Utility Body for Parks and Recreation Dept.	TRUCK MAKE/MODEL:	1994 Ford F-250 H.D.	1994 Chevrolet CC20903			
	DUMP BODY/MODEL:	696	98ARSW			
	MFGR.:	Knaphide	Reading			
	AMOUNT:	$14,299.00	$15,500.00	NO BID	NO BID	NO BID
	DELIVERY:	60 Days	60 to 90 Days			

BID SUMMARY
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BID REQUEST NO. 423-94 — AUTOMOBILES AND TRUCKS FOR THE CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, NC	PARKWAY CHEVROLET ASHEVILLE, NC	CAROLINA TRK. & BODY ASHEVILLE, NC	MAP ENTERPRISES BURLINGTON, NC	BAKER EQPT.ENG. RICHMOND, VA
8. (1) 3/4 Ton Heavy Duty 4-Wheel Drive Pickup Truck for the Street Div.	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	F-250 H.D.	CK20903			
	AMOUNT:	$15,497.00	$16,298.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
9. (2) Cab & Chassis Chassis with Dump Body for the Sanitation Division	TRUCK MAKE/MODEL:	1995 Ford F-700		1994 GMC TC6H042		
	DUMP BODY/MODEL:	GS6615W98C		Special		
	MFGR:	Godwin		Godwin		
	UNIT COST:	$25,466.40		$26,490.00		
	AMOUNT:	$50,932.80	NO BID	$52,980.00	NO BID	NO BID
	DELIVERY:	90 to 120 Days		210 Days		
10. (1) Diesel Powered Powered Cab & Chassis with Dump Body for the Parks and Recreation Dept.	TRUCK MAKE/MODEL:	1995 Ford F-800		1994 GMC TC7H042		
	DUMP BODY/MODEL:	GS6615W98C		Special		
	MFG'R:	Godwin		Godwin		
	AMOUNT:	$44,689.70	NO BID	$42,769.00	NO BID	NO BID
	DELIVERY:	90 to 120 Days		210 Days		
11. (1) Cab & Chassis with an Aerial Bucket Device and Service Body for the Parks and Recreation Dept.	TRUCK MAKE/MODEL:	1995 Ford F-700			1995 Ford F-700	1994 Ford F-700
	AERIAL BUCKET/MODEL:	V032PS			Armlift A-36H	VO-12PS
	MFG'R:	Baker Equipment Co.			T. G. Industries	Versalift
	SERVUCE BODY/MODEL:	1131 - 2200			W132MFC-HD	1131-2200
	MFG'R:	Baker Body			Warner	Baker Eqpt. Eng.
	AMOUNT:	$48,058.70	NO BID	INCOMPLETE BID	$47,208.00	$49,759.00
	DELIVERY:	90 to 120 Days			130 to 150 Days	180 Days
TERMS:		Net 30	Net 30	Net 30	Net 30	Net 30
BID DEPOSIT:		5% Official Check	5% Bid Bond	5% Bid Bond	5% Bid Bond	5% Bid Bond

*EEC: BID PRICE + $\frac{60,000}{\text{EPA MPG}}$ X $1.00 gal.

The following company submitted a 'No Bid': Owsley & Sons, Inc., Fort Mill, S. C.
Bid returned, no bid deposit: Altec Industries, Inc., Birmingham, Alabama

Tuesday - February 22, 1994 - 2:00 p.m.
Asheville Civic Center - Old Art Museum Space

Continuation of Recessed Regular Meeting on February 15, 1994

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

Mayor Martin said that this meeting is a continuation of the regular meeting on February 15, 1994, for the sole purpose of discussing a resolution on the design of the Broadway Avenue Project.

RESOLUTION NO. 94-41 - RESOLUTION ON THE DESIGN OF THE BROADWAY AVENUE PROJECT

Mayor Martin said that Council would hear brief comments from the public and then the Council will vote on a resolution on the design of the Broadway Avenue Project.

Mr. Jim Samsel briefed the Council on some concerns, one being the removal of on-street parking on Broadway. He urged Council to look at the numbers closely, citing DOT's 1984 projections on Broadway being 58% above the 1991 actual counts. He said the Broadway Improvement Project group is for improvements on Broadway, but want them to be real improvements.

Mr. Tom Byers, Special Assistant to the UNC-A Chancellor, felt that all interested parties share the same concern of wanting an environmentally sensitive aesthetically pleasing design. He urged Council to continue the project with its existing design because he believes the roadway with the median has potential to be a very significant aesthetic environmental enhancement to our community. He felt that modifications to the design might result in a product which, in the end, might be a lot less satisfactory for all concerned.

Mr. Henry McFee felt that enough public comment has been expressed and the Council should just get on with the project.

Ms. Betty Lawrence expressed her frustrations regarding public comment to Council and felt that the Broadway Improvement Project group has not been able to make any kind of a comprehensive presentation to the Council about what they feel all the issues are. She felt that most her permitted speaking time has been spent in correcting misstatements of facts given by NC DOT. She said that she has confirmed with Vince Marron, a federal highway engineer in charge of western North Carolina, that the Federal Highway Administration ("FHA"), which funds 80% of this project and thus controls the purse strings, has asked NC DOT to, and NC DOT has agreed to, conduct a full reevaluation of the project. She said that the NC DOT is supposed to thoroughly and completely reexamine and justify all of their traffic data in addition to taking another look at the environmental factors, such as noise pollution, air pollution, the effect on streams, wildlife, historic resources, and on the economic impact. She stressed that since the FHA has asked that another look be taken, the Council should take time out and wait until the results of this reexamination and new data and then make an informed decision.

Upon inquiry of Vice-Mayor Peterson, Ms. Lawrence explained that from 1982 until 1994, there were only 700 more cars traveling on Broadway, which shows roughly a 60% error in DOT's projected calculations.

Mr. Ron Fuller, City Transportation Planner, said that he too spoke with Vince Marron and Mr. Marron told him that the FHA was completely satisfied with the project and they had no desire to see the project stopped. He said that they did request, not insist, NC DOT do a reevaluation because of the obvious public concern regarding projections. They asked that after NC DOT does the reevaluation, that they make sure that all of those assumptions and projections are put into a format that the public can easily understand. He was told that this was not a mandate from the FHA to reevaluate the project.

Upon inquiry of Vice-Mayor Peterson about the traffic counts projections, Mr. Fuller responded that the traffic counts are done by the State and there could be different reasons why the projections are higher.

Mr. H. K. Edgerton insisted that the City Council make sure that NC DOT follows its guidelines as it relates to making a good faith effort to employ minority construction businesses when the Broadway Widening Project is undertaken.

Mr. Gawain Mainwaring passed out to Council a sheet which showed that a traffic count was performed on Broadway and the projected daily count was estimated to be 5,492 vehicles a day. He said that over a 12 year period of time there was only a 700 car increase and that doesn't seem to merit building a road of this proportion. He said the large road will encourage more cars to come through and will only harm the community.

Councilwoman Field read the following resolution and moved to adopt it, stating that the City needs to build our roads for the future:

"WHEREAS, Broadway Avenue has been recognized as a main thoroughfare since the 1922 John Nolen Plan; and

WHEREAS, the Broadway Avenue project has been on the City's Thoroughfare Plan as a principal arterial since 1975; and

WHEREAS, the Broadway Avenue project has been identified as a funded project in the Transportation Improvement Program since 1984; and

WHEREAS, the required environmental reviews and public hearings have been held on the project; and

WHEREAS, phase one of the project has been constructed; and

WHEREAS, the City Council requested the redesign of phase two of the project to add sidewalks, bikelanes, and landscaping and to make accommodations for a greenway along Glenn's Creek; and

WHEREAS, the NC DOT has redesigned the project as requested; and

WHEREAS, the NC DOT has reviewed the need for the project and has concluded that the project as designed is needed to meet the design year deficiencies projected for Broadway Avenue; and

WHEREAS, all privately owned right-of-way necessary for the construction project has been acquired; and

WHEREAS, the City Council desires that the Broadway Avenue Project be built.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

1. The support for the Broadway Avenue project as defined in the current Transportation Improvement Program for the Asheville Urban Area is reaffirmed.

2. The NC DOT is requested to move the sidewalk on the east side away from the curbline to allow sufficient room for a tree lawn of at least two feet in width.

3. Since, a) the design speed for Broadway Avenue is 35 mph, and b) the median is 20 feet in width, and c) there will be a raised concrete curb, the NC DOT is requested to allow for trees to be planted in the median with a maximum of a ten inch caliper, such as Trident Maple, Saw-Tooth Oak, Washington Hawthorn, or Willow Oak.

4. The NC DOT is requested to review the design of the re-channeled portion of Glenn's Creek to ensure that the area is compatible with any proposed greenway plans initiated by the City in the future."

The motion made by Councilwoman Field to adopt the above-referenced resolution was seconded by Councilman Watts.

Councilwoman Field stressed that the Tree/Greenway Commission should review the trees being used in this Project along with the Parks and Recreation Department reviewing the project in terms of maintenance.

Councilwoman Sitnick offered the following substitute resolution and moved to adopt it, stating that she didn't have all the facts:

"WHEREAS, in 1985, the DOT projected 9,200 vpd would be using Broadway by 1988, and there are only 5,492 vpd in 1994; and

WHEREAS, the Federal Highway Administration is asking the DOT and the City to take another look at the projections on Broadway; and

WHEREAS, the Federal Highway Administration has told the DOT it wants to consult with the State Historic Preservation Office before giving construction approval for this project; and

WHEREAS, there are compelling arguments and broad and diverse public support for the vast improvement of Broadway; and

WHEREAS, UNC-A deserves a visually and physically beautiful non-commercialized entrance to its campus and the zoning of Broadway is an unknown at this time; and

WHEREAS, the City has invested considerable funds into the revitalization of beautiful historic Montford; and

WHEREAS, the City of Asheville has a major stormwater runoff management concern already and stormwater runoff is greatly due to impervious surfaces; and

WHEREAS, a number of calls from residents have raised questions of citizen relocation during construction and who would be responsible for that; and

WHEREAS, it will cost the City of Asheville approximately $15,000 annually to maintain a 20 foot median; and

WHEREAS, there are more than 1,000 signatures on a petition and there were more than 300 people at a public hearing who were opposed to a 74 foot Broadway transecting two of Asheville's affordable housing neighborhoods, a width that will surely promote speeds much greater than 35 mph; and

WHEREAS, the I-240/Broadway Intersection must be redesigned before the City can determine how traffic would be handled on Lexington Avenue and that it is not a TIP funded project at this time; and

WHEREAS, the DOT has, on preliminary maps, plans for Lexington Avenue for which the City of Asheville has no knowledge, a preliminary design that could cut through our downtown or, as is favored by the DOT Traffic Safety Engineer now working on the design, an interchange redesign that makes Lexington Avenue a cul-de-sac at I-240, and that there are still too many unanswered questions regarding this crucial part of the project; and

WHEREAS, the DOT has not projected the number of vehicles per day that would use Lexington Avenue and the City and the TAC will appear uninformed if we don't have all the facts before us; and

WHEREAS, the 74 foot wide proposed Broadway will be 10 feet wider than Hendersonville Road; and

WHEREAS, Interstate 40 at the Haywood/Buncombe line, which carries 29,700 vehicles per day (including 18 wheel trucks) is 78 feet wide (only 4 feet wider than the proposed Broadway) and Interstate 40 at the Hawthorn Curve in Winston-Salem, which carries 54,700 vehicles per day (including 18 wheel trucks) varies from 66 feet (8 feet narrower than Broadway) to 78 feet (only 4 feet wider than Broadway; and

WHEREAS the DOT originally said it could live with a short delay to look at alternate designs to see what works and said it would only take six to eight weeks to design a narrower median; and

WHEREAS, Governor Hunt has pledged to consider more cost-effective and environmentally-sound road designs; and

WHEREAS, there are too many unanswered questions to justify our support for a road of this size, expense, and social and environmental impact; and

WHEREAS, it is our responsibility as elected officials of the City of Asheville to evaluate the impact of Broadway and give considerable attention to our citizens, our budget, our housing needs and our economic development;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Asheville City Council requests the Transportation Advisory Committee and the DOT to reconsider the design of the Broadway Widening Project."

Vice-Mayor Peterson seconded the substitute motion as read by Councilwoman Sitnick.

Councilwoman Sitnick reminded the Council that, assuming the NC DOT traffic projections are correct and there will be 15,000 cars on Broadway, Interstate 40 is only four feet wider than Broadway.

Mayor Martin mentioned that this is a difficult decision for the City Council. He asked the Councilwoman Field, representative on the Transportation Advisory Commission, relay Mr. Edgerton's request regarding minority business opportunities on the Project. He felt like NC DOT has been trying to comply with suggestions by the Council. He hoped the public understands that City Council is trying to work with the citizens to come up with a good design and felt that Council would do what it felt was the best for the City.

Vice-Mayor Peterson commented that this project needed to be studied more because the daily traffic count done by NC DOT figures were off too much.

Councilwoman Sitnick appealed to Council by saying that the decision made today will impact a lot of people for a long time. She hoped that while the Council feels compelled to honor the City's commitment, Council must look at every aspect that makes up the City, that being the community.

By a show of hands, the substitute motion made by Councilwoman Sitnick and seconded by Vice-Mayor Peterson was defeated on a 2-5 vote, with Councilmen McClure, Watts and Swicegood, Councilwoman Field and Mayor Martin voting "no".

By a show of hands, the original motion made by Councilwoman Field and seconded by Councilman Watts was adopted on a 5-2 vote, with Vice-Mayor Peterson and Councilwoman Sitnick voting "no".

RESOLUTION BOOK NO. 21 - PAGE 264

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 3:10 p.m.

William D. Moore, Jr.
CITY CLERK

MAYOR

Tuesday - March 1, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-42 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MELVIN C. WALSH III

City Manager Farris read the resolution stating that Melvin C. Walsh III has been an employee for 27 years and has requested retirement from his position as Police Officer Senior. He expressed City Council's appreciation to Melvin for his service to the City of Asheville and its citizens.

Councilwoman Field moved for the adoption of Resolution No. 94-42. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 265

B. RESOLUTION NO. 94-43 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE HAROLD WAITES

City Manager Farris read the resolution stating that Harold Waites has been an employee for 34 years and has requested retirement from his position as Fire Captain. He expressed City Council's appreciation to Harold for his service to the City of Asheville and its citizens.

Councilman Watts moved for the adoption of Resolution No. 94-43. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 266

C. RESOLUTION NO. 94-44 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MARCUS SNYDER

City Manager Farris read the resolution stating that Marcus Snyder has been an employee for 23 years and has requested retirement from his position as Meter Reader III. He expressed City Council's appreciation to Marcus for his service to the City of Asheville and its citizens.

Councilwoman Field moved for the adoption of Resolution No. 94-44. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 277

II. PUBLIC HEARINGS:

A. **PUBLIC HEARING TO ZONE SECTION III OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT**

ORDINANCE NO. 2082 - ORDINANCE ZONING SECTION III OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 4:11 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Verl Emrick, Executive Assistant in the Planning Department, said that the owners of the Braeside III subdivision have petitioned the City to annex the area located off Overlook Road. Annexation of the area was completed as of December 29, 1993, in accordance with the wishes of the owners.

The City's ordinances require that zoning be assigned to all annexed areas. On February 2, 1994, the Planning and Zoning Commission met and recommended that the R-1 Residential District zoning classification be assigned to the area. The vote was unanimous and there was no opposition from the public. This property is also subject to the provisions of the Watershed Protection Overlay Ordinance.

Mayor Martin closed the public hearing at 4:14 p.m.

Mayor Martin stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2082. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2082 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 138

B. **PUBLIC HEARING RELATIVE TO REZONING 8 LOTS IN THE VICINITY OF THE INTERSECTION OF HAZEL MILL ROAD AND LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT (PLANNING AND ZONING COMMISSION RECOMMENDED REZONING TO OI OFFICE INSTITUTIONAL DISTRICT)**

ORDINANCE NO. 2083 - ORDINANCE TO REZONE 7 LOTS IN THE VICINITY OF THE INTERSECTION OF HAZEL MILL ROAD AND LOUISIANA AVENUE FROM R-3 RESIDENTIAL DISTRICT TO OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner I, said that the Planning and Zoning Commission, on February 2, 1994, reviewed and recommended approval of rezoning the eight properties located at the intersection of Hazel Mill Road and Louisiana Avenue (PIN Nos. 9638-05-19-6562, 9638-05-19-7310, 9638-05-19-8454, 9638-05-19-5081, 9638-05-19-6169, 9638-05-19-9619, 9638-05-29-0021 and 9638-05-29-0248) from R-3 Residential District to OI Office Institutional District.

A request was received from the property owners to rezone this property CH Commercial Highway; however, City staff and the Planning & Zoning Commission agreed that OI Office Institutional will be a more appropriate designation for the following reasons: (1) the 2010 Plan indicates the majority of property included within this request is to be developed for institutional use; (2) OI allows for alternative use of property no longer perceived as desirable for residential use; (3) OI standards require open space, limit building coverage and allow for a limited range of use; (4) OI will break up strip commercial zoning along Louisiana Avenue; (5) OI will put less strain on the traffic capacity of Louisiana Avenue, which is projected to have a capacity deficiency by 2020; and (6) OI will verify development patterns at the intersection of Louisiana Avenue and Hazel Mill Road, one corner of which currently has institutional use.

There were several reasons why not to zone the properties to CH Commercial Highway: 1) the street system in this area is not suitable for CH development; 2) these properties do not have sanitary sewer service; service would have to be extended from Patton Avenue at great expense; 3) CH rezoning would lead to the complete strip zoning of North Louisiana Avenue; and 4) CH zoning has been denied in this area in the past.

Planning staff recommended the rezoning of all properties with the exception of the Hyder property on Hazel Mill Road (PIN No. 9638-05-19-6562). He recommended that it remain zoned R-3 Residential District. They felt that since this request does not include the John Queen property (who was not interested in being rezoned), a very poor zone boundary would be formed by the rezoning of the Hyder lot. Also, Hazel Mill Road west of the Louisiana Avenue intersection is a very solid residential area.

Dr. Jesse P. Chapman Jr. referred Council to a letter which was written on February 2, 1994, in opposition of the rezoning to CH Commercial Highway.

Mayor Martin closed the public hearing at 4:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2083, rezoning seven lots in the vicinity of the intersection of Hazel Mill Road and Louisiana Avenue (deleting PIN No. 9638-05-19-6562 from the rezoning - to remain zoned R-3 Residential District) from R-3 Residential District to OI Office Institutional. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2083 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 140

C. PUBLIC HEARING TO REZONE THREE LOTS NEXT TO 185 BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

ORDINANCE NO. 2084 - ORDINANCE TO REZONE THREE LOTS NEXT TO 185 BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 4:21 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner I, said that the Planning and Zoning Commission, on February 2, 1994, reviewed and recommended approval of rezoning the three lots located next to 185 Brickyard Road (PIN Nos. 9639-13-04-5778, 9639-13-94-7344 and 9639-13-14-0336) from R-2 Residential District to R-5 Residential District.

An R-2 designation will allow for the creation of affordable housing because manufactured homes and manufactured home parks are permitted uses. Currently, much of the area is developed at a medium to low density residential with a mixture of manufactured and site-built, single family homes. He said that it does fit the development pattern of the area.

Upon inquiry of Councilwoman Sitnick relative to any opposition to the rezoning, Mr. Benson stated that there was opposition, but mostly from the neighboring R-2 residents. They felt it was unfair that mobile homes would be allowed next to them in the R-5 District and they could not put mobile homes in their R-2 District. They was also some concern mentioned about the narrow road.

It was the consensus of Council to have Mr. Benson recommend to the Planning and Zoning Commission look at the possibility of eliminating the left over block of R-2 Residential District zoning in that immediate area.

Ms. Mary Hughes, petitioner of the rezoning, stated that her Realtor felt that if the property were rezoned to R-5 Residential District, it could be developed into a subdivision for double-wide or modular homes.

Mayor Martin closed the public hearing at 4:28 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2084. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2084 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 142

D. PUBLIC HEARING TO REZONE 59 WEST OAKVIEW ROAD FROM LI LIGHT INDUSTRIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT

ORDINANCE NO. 2085 - ORDINANCE TO REZONE 59 WEST OAKVIEW ROAD FROM LI LIGHT INDUSTRIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 4:29 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner I, said that the Planning and Zoning Commission, on February 2, 1994, reviewed and recommended approval of rezoning 59 West Oakview Road (PIN No. 9627-13-13-6048) from LI Light Industrial District to R-2 Residential District.

This designation allows for a low density residential district permitting single and multi-family development on minimum lots of 10,000 square feet, with maximum densities of 6 units per acre.

Councilman McClure said that he received a phone call about the water line not being properly installed, water line leaks undermining the road and also the increase of traffic on the road. Mr. Benson said that if a site plan comes in for a development in this rezoned area, those type problems be addressed in the group development review process.

Mr. Allen Crowell was concerned about the increase in traffic on Oakview Road and stated that they do intent to keep farming in that area.

Mayor Martin closed the public hearing at 4:33 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2085. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2085 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 144

B. CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Mayor Martin said that this public hearing was originally opened on December 14, 1993.

City Attorney Slawter said that through past Council action it was determined that TCI Cablevision was charging more than is permitted by the FCC for basic service tier. TCI was directed to reduce their rates. Council will need to determine whether TCI will provide refunds for the amount overcharged to customers from September 1, 1993, with interest on the refunds computed at applicable rates published by the IRS for tax refunds and additional tax payments.

Mr. Dan Martin, Executive Director of TCI Cablevision, reviewed the letter he sent earlier to the Council requesting that the City delay any further action on local rate regulation until they have had a chance to recalculate the new benchmark rates mandated by the FCC and they have the opportunity to implement the changes. In reference to the proposed rate rebate, they believe that the September 1, 1993, rollback is revenue neutral. The current rates of an average customer show a reduction of $4.71 or 11.5% in the average customer's monthly bill.

He said calculating the rebates for basic, expanded and franchise fees as well as the increased costs for equipment on a per subscriber basis back to September 1, 1993, is an almost impossible task and will cause a great deal of disruption and confusion for the average customer, especially when one considers the move is basically revenue neutral.

He said that the FCC rules will be released to them within the next two weeks and the FCC mandated rate change and the City Council 22 cent rate reduction will occur on the June 1 bill (due to their billing cycle). He explained to the Council that if they request the rebate back to September 1, 1993, the rebate will be approximately $1.50 per average customer. Rebates for customers with one converter box will see a one-time increase of approximately $7.00 (equipment charge) and the one-time $1.50 reduction. In summary, 35% of their customers will receive a one-time reduction of approximately $1.50 and 65% of their customers will receive a one-time increase of approximately $7.00 or more, depending on how many converter boxes they have, and the one-time decrease of approximately $1.50. He said TCI Cablevision's goal is to make their customers happy and stated that out of 526 systems, TCI Cablevision rated #17 in customer satisfaction. He felt the rebate back to September 1, 1993, will not result in the customer's satisfaction. He urged Council again to delay any further action until they have had the chance to recalculate the new benchmark rates mandated by the FCC.

City Attorney Slawter said that Council action to date has only ordered TCI Cablevision to reduce their rates. He was not sure how Mr. Martin felt this would require an increase in some situations.

Assistant City Attorney Patsy Meldrum said that since the new FCC rules are not available yet, she saw no problem in Council continuing the public hearing in order to give the legal staff time to review the new rules. She suggested Mr. Martin furnish the City Attorney's Office with a full explanation of his comments in order that they can review that also.

Vice-Mayor Peterson asked the City Manager to give a report to the Council on the franchise agreement with TCI Cablevision as it relates to the time frame TCI Cablevision has in which to pay the City its franchise fee.

Upon inquiry of Councilwoman Sitnick on how TCI Cablevision knows how much to pay the City in franchise fees, Mr. Martin said that they pay the City 6% of basic and expanded service and that percentage is part of the 1967 franchise agreement. He said he would be happy to work with the City on an updated franchise agreement.

Councilwoman Field moved to continue the public hearing until April 5, 1994, on the issue surrounding the rebate. This motion was seconded by Councilman Watts and carried unanimously.

Mr. Ralph Bishop commented on the unfairness of the policy set by Council that presentations by the public shall be limited to no more than 10 minutes for the main spokesperson for a group and no more than three minutes for other individuals.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. ORDINANCE NO. 2086 - ORDINANCE CHANGING THE SPEED LIMIT ON NIXON TERRACE FROM 35 MPH TO 25 MPH

Mr. Jim Ewing, Public Works Director, said that the speed limit along Nixon Terrace is 35 mph. A speed study was completed and the geometry of the street was evaluated for safe vehicular speed.

Bull Mountain Road and Memory Lane currently are posted 25 mph. Radar observations indicate that the 85th percentile speed is 28 mph and pace speed ranges from 21 to 30 mph.

Nixon Terrace is a wide residential roadway that extends downhill from Lindsey Road to Memory Lane. Children were seen playing in the area. Based upon field observation a reasonable acceptable speed limit, given the 25 mph limit in the area, would be to reduce the allowed speed limit to 25 mph. Police enforcement will be necessary to assure compliance to the reduced speed limit.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2086. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2086 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 146

B. ORDINANCE NO. 2087 - ORDINANCE CHANGING THE SPEED LIMIT ON BEECHWOOD ROAD AND CROCKETT AVENUE FROM 35 MPH TO 30 MPH AND ON OAKRIDGE ROAD AND FERNLAWN ROAD FROM 35 MPH TO 25 MPH

Mr. Jim Ewing, Public Works Director, said that a speed study was completed and the geometry of the streets were evaluated for safe vehicular speed. He recommended the speed limit be reduced on Beechwood Road and Crockett Avenue from 35 mph to 30 mph and that the speed limit on Fernlawn and Oakridge be reduced from 35 mph to 25 mph.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2087. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2087 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 147

C. RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION RECEIVED UNDER N. C. GEN. STAT. SEC. 160A-31 TO ANNEX A CONTIGUOUS AREA LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF RICEVILLE ROAD AND U.S. HIGHWAY 70 AND KNOWN AS THE VETERANS ADMINISTRATION MEDICAL CENTER

City Manager Farris requested that this item be removed from the agenda. He said that it would be placed back on the agenda after City Council had an opportunity to have a worksession regarding the matter.

D. **RESOLUTION NO. 94-45 - RESOLUTION AUTHORIZING EXECUTION OF A CONTRACT AND RELATED DOCUMENTS FOR THE INSTALLMENT PURCHASE OF TWO FIRE TRUCKS**

City Manager Farris said that on August 3, 1993, City Council approved the purchase of one 55 foot aerial fire truck and one 75 foot aerial fire truck. The acquisition of these fire trucks via installment purchase has been contemplated in the City's Capital Improvements Program. The current CIP on page 12 includes an appropriation to pay the debt service on the contract. Competitive proposals were requested from 18 banking and other funding sources. Eleven responses were received. The proposal from First Citizens Bank at 3.71% APR is the lowest received. This resolution would permit the Mayor, the Interim City Manager, the City Clerk and/or the Finance Director to sign the documents necessary to accomplish the installment purchase of the trucks.

Councilwoman Field moved to excuse Councilman McClure from voting due to a conflict of interest. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-45. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 268

E. **RESOLUTION NO. 94-46 - RESOLUTION AUTHORIZING PARKS AND RECREATION CONSOLIDATION**

City Manager Farris said that the resolution authorizes the City Manager to work with the County Manager to develop a plan for consolidating the City and County Parks and Recreation Departments.

The list of services and facilities provided by the City and County parks and recreation departments are very similar and the customer bases served by the two departments overlap in many areas. Therefore, consolidation of the departments may provide some economies of scale that would make it possible to realize some level of cost savings. In addition, consolidation may allow greater flexibility in the use of resources that would actually result in higher quality services.

A recent survey of nearly 500 people by the Asheville department indicates that 79% felt that there would be significant advantages realized in a consolidated department. Sixty-four percent of the respondents were city residents; thirty-six percent were residents of the unincorporated area of the county.

Discussions concerning consolidation have been held with the county manager. We have agreed that the plan should be developed with no preliminary concepts about organization. The fundamental objective is to provide quality parks and recreation services that represent value to our customers and for which the costs are equitably distributed. We have also recognized that the resolution to some organizational issues may require facilitation by a third party.

Every effort will be made to have a consolidation plan ready for Council's review during the budget process. A reasonable target date for implementation is January, 1995.

Councilman Swicegood felt this was a great way to save tax dollars and also provide better services.

Councilwoman Sitnick felt that, when appropriate, a joint meeting with the County Commissioners and City Council would be in order so that if any questions came up they could be addressed at that time.

Vice-Mayor Peterson and Councilman McClure commended the City Manager for looking at ways to strive for a better government at less cost.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-46. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 269

F. BUDGET AMENDMENT TO INCREASE APPROPRIATION FOR CONTRACT NO. 6 TO ALLOW FOR PROFESSIONAL SERVICES CHARGES ORIGINALLY AWARDED AND BUDGETED WITH CONTRACT NO. 4 AND APPROPRIATE A 4% CONTINGENCY FOR THE REMAINDER OF THE PROJECT

At the request of City Manager Farris, this item was deleted from the agenda.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON FEBRUARY 15, 1994, AND FEBRUARY 22, 1994

B. MOTION TO RESCHEDULE THE THIRD AND FINAL READING OF ORDINANCE NO. 1958 DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT FROM MARCH 15, 1994, TO MARCH 22, 1994

C. RESOLUTION NO. 94-47 - RESOLUTION OF INTENT TO CLOSE EDGEWOOD ROAD BETWEEN OLD TURNPIKE ROAD AND ROSSCRAGGON ROAD AND CALLING A PUBLIC HEARING ON APRIL 5, 1994

RESOLUTION BOOK NO. 21 - PAGE 270

D. RESOLUTION NO. 94-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN EASEMENT, AND A RELEASE AND QUIT CLAIM AGREEMENT WITH SOUTH ASHEVILLE HOTEL ASSOCIATES LIMITED PARTNERSHIP

Summary: South Asheville Hotel Associates Limited Partnership is the owner of real property in Asheville. There now runs a 24" water line across the property of South Asheville Hotel Associates Limited Partnership. South Asheville Hotel Associates Limited Partnership has installed a new 24" water line to service its property and the property of Mary C. Gladstone. Gladstone has conveyed to South Asheville a water line easement for the newly-installed 24" water line. This resolution

will authorize the City Manager to execute a Release and Quit Claim Agreement and any other related documents to South Asheville for all rights and interest the City may have in the old water line. This resolution will also authorize the City Manager to accept a water line easement from South Asheville for the new water line.

RESOLUTION BOOK NO. 21 - PAGE 271

E. RESOLUTION NO. 94-49 - RESOLUTION AUTHORIZING SUBMISSION OF AN ASHEVILLE REGIONAL HOUSING CONSORTIUM APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR HOME INVESTMENT PARTNERSHIPS PROGRAM GRANT FOR FY 94-95

Summary: This action will authorize submission of the Asheville Regional Housing Consortium's HOME grant application for 1994 funds. The application is submitted by the Lead Entity of the Consortium. Following are the member governments and Community Housing Development Organizations approved by the Consortium Board of Directors for project funds within their jurisdiction: City of Asheville, County of Buncombe, County of Henderson, County of Madison and Mountain Housing Opportunities. As required by HUD regulations 15% of program funds will be awarded to non-profit Community Housing Development organizations. The total HOME grant will be $1,092,000. The City will receive $400,000 for program cost and $66,104 for administrative cost. The total match for grant is $284,665 and the City's share of match is $60,000.

RESOLUTION BOOK NO. 21 - PAGE 272

Councilman Watts moved for adoption of the Consent Agenda. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. ORDINANCE NO. 2088 - BUDGET AMENDMENT RELATIVE TO THE HAW CREEK II ANNEXATION SEWER PROJECT

City Manager Farris said that this budget amendment will amend the FY 1993-94 budget by appropriating $610,000 for the Haw Creek Sewer Line Project.

A construction contract for $427,000 was awarded to Buckeye Construction Company in January to install the Haw Creek sewer; however, the contract for the project has not been executed pending appropriation of the necessary funds. The additional funds over the construction contract amount will be used for construction phase engineering services, right-of-way acquisition, and a 10% contingency.

The funds to support the appropriation will come from the proceeds of the 1/2 cent local option sales tax which have been earmarked for the project in the Sewer Fund Balance. Any funds remaining after project completion will return to the Sewer Fund.

The sewer improvements installed in this project must be completed by July 1, 1994, in order to meet the requirements of the annexation plan, so it is important for the contract to be executed and the contractor given notice to proceed as soon as possible.

Councilwoman Sitnick suggested some type of policy to make sure that the entire project estimate is appropriated at the beginning of the project.

Mr. Ralph Bishop asked why the public was not allowed to speak in Council's worksessions. He felt Council made their decisions in their worksessions and when they come into the formal meeting, their minds are already made up. He felt that his comments fell on deaf ears.

Councilwoman Sitnick responded that his comments do not fall on deaf ears and that because of time restraints during Pre-Council, comments need to be brief but certainly no one has been denied the opportunity to be heard as the meetings are open to the public.

Councilwoman Field stated that the Council did not make their decisions ahead of time and always considered comments made by the public.

Mr. Bishop then made several comments relative to full and accurate City Council minutes.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2088. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2088 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 148

B. RESOLUTION NO. 94-50 - RESOLUTION AMENDMENT SECTION 7 OF THE CITY OF ASHEVILLE PERSONNEL POLICY

City Manager Farris read the resolution stating that it will amend the City of Asheville's Personnel Policy to include a definition for contract employee. The existing Personnel Policy only includes definitions for part-time and full-time employees. Adding the definition for contract employee will clarify the City's authority to hire employees on contract basis for a specified term or on an on-going basis.

Although the need to use contract employees is infrequent, it is very useful (1) when employees are needed immediately and a current eligibility list does not exist; (2) when specialized skills are needed for a particular project; and (3) by assisting the City in meeting its affirmative action goals.

Councilman Watts felt this amendment was a great move to try to get the City's Affirmative Action Plan up-to-date especially in the Police and Fire Departments.

Councilman Watts moved for the adoption of Resolution No. 94-50. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 273

C. COMMENTS BY RALPH BISHOP

Mr. Bishop commented on the time-limit speaking policy and felt the policy was not being adhered to uniformly. Mayor Martin responded that any member of the public can address the Council in a reasonable fashion and for a reasonable period of time.

D. REQUEST REGARDING TAX REVALUATION

Mr. Dennis Weaver asked the City Council to adopt a resolution or policy relative to their position on the recent tax revaluation.

Mayor Martin said that Council will consider this request.

E. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of February 14-18, 1994: John Schneider (Parks) and Christie G. Rhom (Sanitation).

He said the following claims have been received by the City during the week of February 21-25, 1994: Mary Shivers (Fire), Asheville Wastepaper (Water), Southern Bell (Water), Virginia Marvin (Water), William Boyle (Inspections), Walmark Associates (Water) and L.C. Ray (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:41 p.m.

CITY CLERK

MAYOR

Tuesday - March 22, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-51 - RESOLUTION COMMENDING ASHEVILLE HIGH SCHOOL FOR ITS PARTICIPATION IN THE INTERNATIONAL EXCHANGE PROGRAM AND RECOGNIZING THE FOREIGN EXCHANGE STUDENTS AND TEACHER FROM JAPAN

City Manager Farris read the resolution commending Asheville High School for its participation in the international exchange program which is in its 18th year in the United States.

Mr. Courtney Ross, teacher at Asheville High School, recognized the exchange students and teacher from Japan while Mayor Martin presented each with a small gift from the City.

Councilwoman Field moved for the adoption of Resolution No. 94-51. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 274

B. RESOLUTION NO. 94-52 - RESOLUTION DESIGNATING SHARE-OUR-STRENGTH MONTH

Councilwoman Sitnick introduced and read the resolution designating April 1994 as "Share Our Strength" Month in recognition of the efforts of SOS, the organization created to alleviate hunger today and prevent hunger tomorrow.

Mr. Mike Faulkner commended local chefs, restaurants and food suppliers for their participation in the SOS's Taste of the Nation. He then showed a brief video. He thanked Mr. Billy Shore and Councilwoman Sitnick who were instrumental in getting SOS, the largest non-profit agency feeding the poor today, started back in the 1980's.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-52. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 275

C. RESOLUTION NO. 94-53 - RESOLUTION ESTABLISHING COMMUNITY RELATIONS MONTH

Councilwoman Sitnick introduced and read a resolution establishing May 1994 as "Community Relations Month." She said the Community

Relations Council is requested to develop a program for Community Relations Month to focus on positive approaches to recognizing the diversity of the Asheville community and helping increase understanding and respect among all groups. She said that a date in May will be set by a steering committee for the first annual Community Relations Council Forum on solutions and plans of action.

Upon inquiry of Mr. H. K. Edgerton, Councilwoman Sitnick said that the steering committee will be formulated by the Community Relations Council and City Council members.

Mr. Bob Smith, Asheville-Buncombe Community Relations Council, thanked Council for their support and looked forward to working with them in the future.

Councilwoman Field moved for the adoption of Resolution No. 94-53. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 276

D. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 21-27, 1994, AS "VOLLEYBALL WEEK"

Mayor Martin proclaimed the week of March 21-27, 1994, as "Volleyball Week" in the City of Asheville and presented Mr. Donnie Luke with the proclamation who briefed the Council on the Hi Neighborhood Volleyball Tournament.

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

A. THIRD READING OF ORDINANCE NO. 1958, AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 10 SUNSET SUMMIT

City Attorney Slawter said that this matter was last before the Council on January 24, 1994, at which time Bob Hixson had just sent to the current owner, Kenneth Maultsby, an Order that the demolition be completed by Mr. Maultsby. Mr. Maultsby did demolish part of the remaining structure on the site, but has now ceased his demolition efforts, leaving an elevated driveway and a retaining wall.

Based upon Judge Saunders' ruling, Bob Hixson has directed that the elevated driveway and retaining wall must also be demolished. Mr. Maultsby appealed that ruling to the Board of Adjustment. On March 21, 1994, a hearing was held before the Board of Adjustment and the Board of Adjustment upheld the decision of Bob Hixson denying the most recent permit application by Mr. Maultsby.

City Attorney Slawter explained that if the ordinance is adopted on its third reading by the Council, the ordinance directs Mr. Hixson to cause the remaining portion of the structure at 10 Sunset Summit to be demolish and removed.

At the request of Mayor Martin, City Attorney Slawter explained that Mr. Hixson denied the permit based upon Judge Saunders' Superior Court Order in January 1994 that reversed the issuance of an earlier permit by Mr. Hixson.

Mr. Kenneth Maultsby, spokesman for the Phoenix Group, made various comments relative to Harry Brummer as a person. He passed out

exhibits and pictures as he urged the Council to not adopt the proposed ordinance directing demolition and removal. He stated, among other things, that the City cannot destroy private property for aesthetic reasons alone.

On a roll call vote of 7-0, Ordinance No. 1958 passed on its third and final reading.

ORDINANCE BOOK NO. 13 - PAGE 22

B. ORDINANCE REGULATING CONTROL OF STORMWATER

At the request of Stormwater Task Force, it was the consensus of Council to postpone this matter until April 19, 1994.

IV. NEW BUSINESS:

A. ANNUAL 2010 MONITORING REPORT

Mr. Paul Benson, Urban Planner, said that on an annual basis the Planning Department requests that agencies with responsibilities for implementing goals of the 2010 Plan report on the year's progress in achieving those goals. He then highlighted the significant accomplishments reported for the past year.

Mayor Martin stated that the 2010 Plan is a outstanding example of community participation. He suggested that within the next 12 months, the Council reconstitute the 2010 Plan committees and task forces to make mid-course corrections. He felt staff should be commended for their work and stated how important it was to continually have community involvement.

Councilwoman Sitnick suggested coordination of the 2010 mapping with the UDO mapping. Mr. Benson explained the process involved with the UDO mapping and assured Councilwoman Sitnick that the process will have extensive public involvement.

Vice-Mayor Peterson hoped that when the committees get back together again that representatives from all areas be included.

Mr. H. K. Edgerton spoke about problems he has encountered in accessing the economic system. He hoped that minorities, in particular African-Americans, will be able to obtain some financial help from the City in order that they can be a viable part of the downtown area.

Councilman McClure stated that if Mr. Edgerton would call him at his office, he would be happy to share with him some information regarding financial help available, including, but not limited to the Self-Help Credit Union. Mr. Edgerton related some experiences encountered with the Self-Help Credit Union and the amount of red tape and extensive paperwork involved with trying to obtain a loan.

Councilman Watts suggested Mr. Edgerton talk to the Housing Authority for information on what minority businesses and developments are taking place in the community.

B. RESOLUTION NO. 94-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ADDENDUM NO. 1 TO ENGINEERING CONTRACT NO. 13 (CONSTRUCTION CONTRACT NO. 10) WITH VAUGHN & MELTON FOR ENGINEERING SERVICES FOR STREET AND SIDEWALK REHABILITATION PROJECT

City Manager Farris said that this resolution allows for additional engineering work for materials testing which is required to complete Contract 13 with Vaughn and Melton Engineers to assure quality construction is maintained during the course of the project. The contract provides for testing as an additional service. An estimated $11,256 should be added to Contract 13 to accommodate this additional funding requirement.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-54. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 277

C. RESOLUTION NO. 94-55 - RESOLUTION AUTHORIZING STUDY AND PREPARATION OF A PLAN FOR CONSOLIDATION OF EMERGENCY COMMUNICATIONS SERVICES

City Manager Farris said that this resolution authorizes the City Manager to work with the Buncombe County Manager in developing a plan for consolidation of City of Asheville and Buncombe County emergency communications services during the fiscal year 1994-95 budget development process.

This resolution is based on one of several recommendations placed before City Council in connection with development of a strategy for maintenance of Asheville's Insurance Services Office Class 3 insurance rating.

Upon inquiry of Councilwoman Field, City Manager Farris said that Buncombe County has been contacted and felt this proposed consolidation was worth studying.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-55. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 278

D. ORDINANCE NO. 2089 - BUDGET AMENDMENT RELATIVE TO BELE CHERE FUND

City Manager Farris said that this budget amendment, in the amount of $362,000, is the result of staff efforts to resolve long-standing accounting and budget confusion about the annual Bele Chere Festival. Each year the City struggles to deal with the accounting and budget problems that occur because planning, holding and closing the Festival takes place over two fiscal years, and because one festival's process usually overlaps with another.

In order to reduce the complexity around the accounting, budgeting and record keeping systems for Bele Chere, we have set up a new continuing balance enterprise fund just for the Bele Chere Festival. In addition, each year we will designate a unique division number for each festival so that we can easily distinguish one annual event from another. This distinction should also be evident in the Comprehensive Annual Financial Report.

Further, we will present separate budgets to the City Council for each annual Festival, instead of budgets for portions of two festivals, which are broken down over two fiscal years. This new budget and accounting approach is more appropriate for the event because it recognizes each annual Bele Chere Festival as an individual project (which it is) rather than as a group of annual operating expenses (which it is not, but which is how we have treated it in the past). This new approach will provide us better management information.

Mr. Ralph Bishop spoke in opposition to the Bele Chere Festival. He felt the City should not be running the Festival and that some businesses, in fact, have to close down during the Festival.

Mr. H. K. Edgerton was concerned about African-American representation in the Festival. He felt there was a great deal of creativity in the African-American community and urged the City to give them the kinds of financing, or help them obtain financing, so they can be a part of the system.

Mayor Martin suggested Mr. Edgerton attend a Bele Chere Commission meeting and relay their ideas to the Commission.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2089. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2089 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 150

E. ORDINANCE NO. 2090 - BUDGET AMENDMENT RELATIVE TO VALLEY SPRINGS PARK CONSTRUCTION

City Manager Farris said that this budget amendment in the amount of $25,000 is a contribution from the South Buncombe Recreation and Athletic Association which will be used to complete Phase II of the improvements currently underway at Valley Springs. This generous contribution will be used to construct a storage facility at the park.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2090. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2090 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 164

F. ORDINANCE NO. 2091 - BUDGET AMENDMENT RELATIVE TO THE BEAVERDAM AREA ANNEXATION SEWER LINE PROJECTS

City Manager Farris said that this budget amendment, in the amount of $950,600, is to fund the Beaverdam Area Annexation Sewer Line Projects for sewer construction. The sewer lines have been completed on contracts I and II and the Engineering staff is working on the as-built drawings and warranty items. Originally there was not a budget appropriation set up specifically for these projects.

City Attorney Slawter answered questions from Councilman Swicegood as they related to the Carter Cove Road bridge agreement.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2091. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2091 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 166

G. ORDINANCE NO. 2092 - BUDGET AMENDMENT RELATIVE TO ANNUAL APPROPRIATIONS FOR VARIOUS MUNICIPAL AGREEMENTS AND FOR THE BROADWAY GREENWAY

City Manager Farris said that this budget amendment, in the amount of $225,000, sets up the annual appropriation to pay for the annual obligations that we have for various municipal agreements and for the Broadway greenway. These payments are actually made from the Public Improvements Fund (60) because this is the fund where we manage all state and federally shared (except transit) bridge projects, right-of-way acquisitions and other municipal agreements.

The revenue which is used to support these obligations is budgeted as an annual appropriation in the Street and Sidewalk Fund (62). This revenue will be transferred from that fund to the 60 fund where the bills will be paid.

Upon inquiry of Councilwoman Sitnick, City Manager Farris said that since there is currently no budget for improvements to the Broadway greenway, he felt a budget amendment will be required in the future.

After inquiries from Mr. Ralph Bishop, City Manager Farris said that he would provide Mr. Bishop with a detailed list of the municipal agreements referred to in this budget amendment. He offered to mail Mr. Bishop the list or have it available for him at Council's next meeting.

City Manager Farris offered to have available two agenda notebooks available on Monday mornings for public inspection.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2092. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2092 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 168

H. ORDINANCE NO. 2093 - BUDGET AMENDMENT RELATIVE TO BRIDGE *DESIGN WORK FOR THE GLENDALE AVENUE BRIDGE*

City Manager Farris said that this budget amendment, in the amount of $103,000, sets up the preliminary costs for bridge design work for

the Glendale Avenue bridge. This bridge is approved in the State's Transportation Improvement Plan. The City will participate with the State in a 20%-80% cost share for the project. This budget amendment reflects 100% of the anticipated costs for the bridge design work and the 80% revenue that we will receive from the State on a reimbursement basis. The City's 20% share for this project is already appropriated in the Street and Sidewalk fund. Revenues are sufficient to support our cost for this phase of the project.

Once the design work is completed, we will set up a full budget for the project that will, at least, include right-of-way acquisition, construction, inspection and a contingency.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2093. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2093 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 170

I. **RESOLUTION NO. 94-56 - RESOLUTION AUTHORIZING EXECUTION OF A GRANT AGREEMENT WITH MOUNTAIN HOUSING OPPORTUNITIES FOR COMPLETION OF THE 58 BROADWAY PROJECT**

City Manager Farris said that this resolution authorizes an additional $10,000 in funding to Mountain Housing Opportunities, Inc., to complete the 58 Broadway affordable housing project.

In 1990, the City loaned the 58 Broadway Corporation $86,300 in CDBG funds to support a $238,000 project to create five residential units and one renovated commercial space at 58 Broadway. The corporation experienced trouble with the project and requested additional funding for completion. In March of 1992, the City approved an additional $10,000 in funding; however, work on the project ceased before the funds were disbursed. First Union Bank foreclosed on the project and acquired title in July of 1993. Since the project was not completed, the Department of Housing and Urban Development has determined that the project support was an ineligible expenditure. If the project cannot be completed as planned, the City will be required to reimburse the CDBG fund.

Mountain Housing Opportunities, Inc., ("MHO") recently acquired title to the property and plans to complete the project. MHO needs an additional $10,000 in support from the City. This resolution simply transfers funds previously committed to the project to MHO.

Vice-Mayor Peterson and Councilman Swicegood thanked the MHO for taking on this project.

Mr. Scott Dedman, Executive Director of MHO, briefed the Council on the project. He said the apartments would rent for approximately $200 a month.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-56. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 279

V. CONSENT:

Regarding Item "A" on the Consent Agenda, Mr. Ralph Bishop asked Deputy City Clerk Maggie Burleson if she typed verbatim minutes as required by State law. She replied that she did not.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 1, 1994

B. RESOLUTION NO. 94-57 - RESOLUTION RELINQUISHING ALL RIGHTS THE CITY OF ASHEVILLE HAS IN AND TO THAT DEED OF EASEMENT, AND ITS ENLARGEMENTS, GIVEN BY THE STATE OF NORTH CAROLINA TO THE CITY OF ASHEVILLE FOR A RADIO TOWER AND SMALL APPURTENANT BUILDING ON THE PROPERTY IDENTIFIED AS THE GOVERNOR'S WESTERN RESIDENCE

Summary: The resolution relinquishes all right, title and interest of the City in and to a radio tower and appurtenant building located on property owned by the State of North Carolina for the Governor's Western Residence. The City now uses other towers for its radio communications system. Buncombe County desires to use this tower and appurtenant building for its EMS communications system.

There is no relevant cost of this action. The impact on the budget would be to relieve the City of any liability which might arise as a result of its interest in the tower and appurtenant building. Internal and external customers of the City will not be impacted as the radio communication system of the City is being served by other towers.

RESOLUTION BOOK NO. 21 - PAGE 280

C. RESOLUTION NO. 94-58 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ESTOPPEL CERTIFICATE IN FAVOR OF DAVIDSON HOTEL PARTNERS LIMITED PARTNERSHIP

Summary: The Airport Holiday Inn has recently been purchased by Davidson Hotel Partners, L.P., a Delaware limited partnership. The hotel will continue to be managed by Davidson Hotel Company, which has previously managed that facility, in addition to the Holiday Inn and Days Inn on Tunnel Road. In connection with the purchase of the hotel by Davidson Hotel Partners, L.P., the partnership has requested that the City sign an estoppel certificate certifying that the lease is not in default. There is no relevant cost of this action.

RESOLUTION BOOK NO. 21 - PAGE 281

D. RESOLUTION NO. 94-59 - RESOLUTION AUTHORIZING PREPARATION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR NOMINATION OF AN EMPOWERMENT ZONE

Summary: This resolution will formalize a decision to apply to the U.S. Department of Housing and Urban Development for nomination of an Empowerment Zone. The Empowerment Zone and Enterprise Community program is a critical element of the Clinton/Gore Administration's

community revitalization strategy. There will be six zones and 65 communities designated in urban areas throughout the United States. If an Empowerment Zone application is not awarded a designation, it will automatically be considered for designation as an Enterprise Community. Empowerment Zones will be awarded up to $100 million for each zone. Employer Wage Credits for zone residents will be awarded to employers in the zone. Enterprise Communities will receive approximately $3 million in Social Service Block Grant and targeting of other federal resources. The application process requires a strategic plan to be developed with wide spread community involvement. The deadline for applying for nomination of a zone is June 30, 1994. The strategic plan is to be submitted with the application. The Community Development Division will be responsible for development of the application.

RESOLUTION BOOK NO. 21 - PAGE 282

E. RESOLUTION NO. 94-60 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT TO CAROLINA POWER & LIGHT COMPANY FOR POWER LINES ACROSS THE AREA KNOWN AS WEST CHAPEL ROAD PARK

Summary: This resolution will authorize the Mayor to enter into an agreement to provide CP&L the necessary easements to relocate certain power lines located in the West Chapel Road Park. CP&L will be moving these lines approximately 100 feet from their present location. In addition, new lines will be added to provide electrical service to the ballfield, toilet facilities, concession stand and other necessary support facilities.

RESOLUTION BOOK NO. 21 - PAGE 283

F. RESOLUTION NO. 94-61 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT TO CAROLINA POWER & LIGHT COMPANY FOR POWER LINES ACROSS THE AREA KNOWN AS FRENCH BROAD RIVER PARK

Summary: This resolution will authorize the Mayor to enter into an agreement to provide CP&L the necessary easements to provide electrical service to the picnic shelter, toilet facilities and other necessary facilities located in the French Broad River Park.

RESOLUTION BOOK NO. 21 - PAGE 284

G. RESOLUTION NO. 94-62 - RESOLUTION DESIGNATING THE POLICE CHIEF AS THE APPROPRIATE OFFICIAL OF THE CITY AUTHORIZED TO MAKE RECOMMENDATIONS REGARDING THE SUITABILITY OF A PERSON OR OF A LOCATION FOR AN ABC PERMIT

Summary: This resolution designates the Chief of Police as an official authorized to make recommendations regarding ABC permits. Currently, the Assistant City Manager is making these recommendations.

RESOLUTION BOOK NO. 21 - PAGE 285

H. RESOLUTION NO. 94-63 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Report is for the period July 1, 1993, through December 31, 1993. Sale of scrap cast iron on 10/12/93 for #287.90 to Shulimson Bros. Co. and sale of scrap cast iron on 12/2/93 for $124.00 to Biltmore Iron & Metal.

RESOLUTION BOOK NO. 21 - PAGE 286

I. **MOTION TO AUTHORIZE THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO SELL DISPOSAL PARCEL 83 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM TO MR. WALTER BYRD IN THE AMOUNT OF $1,750**

J. **MOTION SETTING PUBLIC HEARINGS FOR APRIL 5, 1994, AS FOLLOWS: TO REZONE 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL;
TO PARTIALLY REZONE 353 LEICESTER HIGHWAY FROM CS COMMERCIAL SERVICE TO R-3 RESIDENTIAL DISTRICT; AND TO AMEND THE ZONING ORDINANCE TO ALLOW BOARDING OF ANIMALS AT VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS.**

K. **MOTION SETTING A PUBLIC HEARING FOR APRIL 5, 1994, RELATIVE TO A VARIANCE REQUEST FOR HIGHLAND BOULEVARD SUBDIVISION.**

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. **GROUP DEVELOPMENTS**

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on March 2, 1994:

CLAIRMONT CREST MOBILE HOME PARK

Mr. Green said that Jerry Eugene Bowers and Ken Pankow are requesting approval for a twelve unit addition to Clairmont Crest Mobile Home Park. The 10.9 acre site is zoned R-5 and the proposed development complies with all requirements of the City's zoning ordinance. Access to all units will be provided by the extension of an existing private drive. Availability of all services (i.e. - fire protection, sewer allocation, and water availability) have been approved.

Following the review of the site plan, the Planning and Zoning Commission voted unanimously on March 2, 1994, to recommend approval of the project with two conditions:

1. That a turnaround be provided at the end of the drive with a minimum radius of thirty-five (35) feet; and

2. That plans be resubmitted showing permanent patios as required by the Manufactured Home Regulations.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

BLUE RIDGE CENTER

Vice-Mayor Peterson moved to excuse Councilwoman Field due to a conflict of interest. This motion was seconded by Councilman McClure and carried unanimously.

Mr. Green said that Danie Johnson is requesting approval for an 11,797 square foot addition to the Blue Ridge Center, located at 257 Biltmore Avenue. The addition will house the center's substance abuse and child and family services facilities. The project site is zoned CS Commercial Service and the proposed development complies with all requirements of the City's zoning ordinance. Approval of a sewer allocation from MSD has been received. Approvals of fire protection and water availability have been applied for but not yet received.

Following the review of the site plan, the Planning and Zoning Commission voted unanimously on March 2, 1994, to recommend approval of the project with 2 conditions:

1. That approvals be obtained for fire protection and water availability; and

2. That a driveway permit be obtained from NCDOT.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

BILTMORE COMMONS

Mr. Green said that Nappier and Gunnels, developers, are proposing the development of a 50 acre site located near the intersection of Sand Hill Road and W. Oakview Road. Approximately 12 acres will be developed as a single-family subdivision, with access onto West Oakview Road. The remaining 38 acres is proposed for development as a 225-unit condominium project. This portion of the development is zoned R-2 and the proposed development complies with the requirements of this zoning district.

The condominium development will consist of 63 triplex units and 162 sixplex units. The triplex buildings will be one story and the sixplex buildings will be two stories. A recreation area consisting of a clubhouse, tennis courts, and swimming pool will be developed as part of the project. Overall density for the condominium project will be 5.8 units per acre.

Neighboring property owners spoke at the Planning and Zoning Commission meeting and expressed concern regarding increased traffic, crowding of schools, and stormwater runoff. A neighboring property owner who owns a farm was especially concerned about the impact of the increased stormwater runoff onto his farming operation.

After reviewing the site plan and hearing the comments of the public on March 2, 1994, the Planning and Zoning Commission found that the plan complied with the requirements of the zoning ordinance and voted 6 to 1 to recommend approval with the following four conditions:

1. Approval of driveway permit by NCDOT;

2. Receipt of letters approving utility availability and fire protection (letters of water availability and fire protection approval received);

3. Submittal of a detailed landscaping plan for the parking area; and

4. Provision of stormwater drainage plans to the City for review.

As the result of a request from the Tree/Greenway Commission asking to review this project, Councilwoman Sitnick moved to set a public hearing on this matter for April 19, 1994. She asked that the City Manager contact Mr. Joey Moore, Chairman of the Tree/Greenway Commission, and request their response prior to the public hearing. This motion was seconded by Councilwoman Field.

After some discussion of the reasoning behind setting the public hearing, Councilwoman Sitnick said that she did not in any way wish to delay the project, only that the Tree/Greenway Commission be given an opportunity to review and comment the project. Therefore, it was the consensus of Council to request the developer meet with the Tree/Greenway Commission at their next meeting, which he said he would.

Councilwoman Sitnick then withdrew her prior motion to set a public hearing on April 19, 1994. Councilwoman Field then withdrew her second.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

GIVENS ESTATES DUPLEXES

Mr. Green said the Givens Estates is proposing the construction of ten residential duplexes located at the retirement community on Sweeten Creek Road. The new construction will entail 20 new living units and be accessed from a private road within the Givens Estates property. While the property is contained within the OI (Office-Institutional) zoning district, adjacent properties are zoned R-2 (Residential) and LI (Light Industrial). The proposed project meets the minimum requirements of the zoning ordinance and has received approval for availability of water and sewer services.

At their March 2, 1994 meeting, the Planning and Zoning Commission voted to recommend approval of the Givens Estates Duplexes with two conditions:

1. Letter confirming fire protection availability must be obtained; and

2. Approval of Public Works Department regarding stop sign locations and specifications for curb and drainage pipes.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. REPORT ON HYDRANT FLOW DATA - ISO RATING

City Manager Farris reported that, according to Water Resources Director Mike Holcombe, water flows and pressures had improved substantially at fire hydrants previously checked by the Insurance Services Office ("ISO"). City Manager Farris reported that, based on Mr. Holcombe's report, and on City Council's endorsement of the "Retaining Class 3" recommendations, he would direct staff to proceed with the ISO re-evaluation process.

C. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop asked why he has not received verbatim minutes of two prior City Council meetings. He felt that State law was clear in requiring verbatim minutes be kept of all City Council meetings.

It was City Attorney Slawter's opinion that State law does not require verbatim minutes be kept of City Council meetings.

Councilwoman Field moved that the Asheville City Council not require the City Clerk to take verbatim City Council meeting minutes. This motion was seconded by Councilwoman Sitnick and carried unanimously.

D. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of February 28 - March 4, 1994: Laura Grooms (Water), James and Joyce Lee (Police), Richard Kelly (Fire), Bryan McGuire (Streets), Tammy L. Cutshall (Police), and Marvin Thompson (Water).

He said the following claims were received during the week of March 7-11, 1994: Ed Schell (Streets), Eva Chandley (Water), David Moore (Water), Allen Moss (Streets), Terry Lee Peek (Police), Southern Bell (Streets), Sharon Norton (Water) and Charles Johnson (Water).

He said the following claims were received during the week of March 14-18, 1994: Vicki Isaac (Streets), Joe Pless (Water), Jackson Steele (Parks), Deborah Ware (Fire), Nichole McNabb (Parks), Southern Bell (Water), Miranda Wyatt (Fire) and Laura Stone (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

E. LAWSUIT

City Manager Farris said that the City was served with the following lawsuit on March 15, 1994: John Scott Hawkins (Appeal from Civil Service Board decision).

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:08 p.m.

William D. Wolcott
CITY CLERK

MAYOR

Tuesday - March 29, 1994 - 7:00 p.m.
Vance Avenue Elementary School Auditorium

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

Police Chief Will Annarino and Tommy Seller, representative of the West Asheville Business Association, brief the Council on the proposed West Asheville Substation for the Police Department.

The following topics were raised by residents and addressed by Council: fear of raising of taxes, back taxes owed by Pack Plaza, favoritism of services to other areas of the City, sidewalk repair on Haywood Street, Public Works Facility, demolition process, selection of a city manager, stronger noise ordinance, zoning enforcement, elected School Board, taxing tourists instead of city residents, stronger animal control laws, tax lots, stormwater runoff, concern about poor turnout and also concern that there was only one member of the media present.

Balancing the budget was discussed by members of Council.

Councilwoman Sitnick stated that her original budget vote was based on the fact that her instructions were clear that the Council was not going to balance the budget on the back of the taxpayer or the City's loyal employees. She requested that we look at every nickel and dime as to where we could save and cut waste before anyone's job was jeopardized. She had a list of several cost-cutting ideas and asked that all members of Council prepare a similar list in order that layoffs could be avoided.

At 10:00 p.m., Councilwoman Sitnick moved to recess the meeting and reconvene at 12:00 Noon on Thursday, March 31, 1994, in the Pre-Council Conference Room on the second floor of the City Hall Building. This motion was seconded by Councilman McClure and carried unanimously.

William F. Wolcott, Jr.
City Clerk

Russell Martin
Mayor

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Tuesday - March 31, 1994 - 12:00 Noon

Continuation of Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Deputy City Clerk Maggie Burleson

Absent: Councilman Joseph Carr Swicegood

Councilwoman Sitnick presented Council with 37 cost-cutting ideas, which ranged from minor savings to large amounts of savings which the City might realize.

City Manager Farris reported that the senior staff had met and had come up with a list of positions that would result in a balanced budget with virtually no layoffs.

Mayor Martin adjourned the meeting at 1:30 p.m.

William S. Malcolm, Jr.
City Clerk

Russell Martin
Mayor

Tuesday - April 5, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldrum; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: City Attorney William F. Slawter

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 1994 AS "CHILD ABUSE PREVENTION MONTH"

Mayor Martin proclaimed April 1994 as "Child Abuse Prevention Month" in the City of Asheville and presented it to Brett Craig, member of Partners for Prevention.

B. PROCLAMATION PROCLAIMING APRIL 10-16, 1994, AS "BUILDING SAFETY WEEK"

Mayor Martin proclaimed April 10-16, 1994 as "Building Safety Week" in the City of Asheville and presented it to Bob Hixson, Director of Inspections.

C. PROCLAMATION PROCLAIMING APRIL 17-23, 1994, AS "NATIONAL VOLUNTEER RECOGNITION WEEK"

Mayor Martin proclaimed April 17-23, 1994 as "National Volunteer Recognition Week" in the City of Asheville and presented it to Steve Kirkland, Director of Volunteers at St. Joseph's Hospital.

D. PROCLAMATION PROCLAIMING APRIL 10-16, 1994, AS "NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK"

Mayor Martin proclaimed April 10-16, 1994 as "National Public Safety Telecommunicators Week" in the City of Asheville and presented it to Police Chief Will Annarino.

II. PUBLIC HEARINGS:

Mayor Martin announced that due to an advertising error with the Citizen-Times newspaper, it will be necessary to reschedule some public hearings scheduled for today. Councilman Watts moved to reschedule the public hearing to rezone 144 Beaverdam Road and the public hearing to amend the zoning ordinance relative to boarding of animals at veterinary clinics to April 19, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously. Mayor Martin noted that the public hearing to rezone a portion of 353 Leicester Highway will be rescheduled at a later date at the request of the petitioners. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

A. **PUBLIC HEARING TO CLOSE EDGEWOOD ROAD BETWEEN OLD TURNPIKE ROAD AND ROSSCRAGGON ROAD**

RESOLUTION NO. 94-64 - RESOLUTION TO CLOSE EDGEWOOD ROAD BETWEEN OLD TURNPIKE ROAD AND ROSSCRAGGON ROAD IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Assistant City Attorney Meldrum said that the closing of Edgewood Road only involved two property owners and in that the advertisement had been done once a week for three successive weeks (out of the four successive weeks required), the City gave the petitioners the option of rescheduling the public hearing, to allow the four notices, at no additional expense to them, or proceeding based upon a minimal amount of risk. As there is only a 30 day statute of limitations to challenge street closings, as only two property owners were involved, and as the advertisement was done three times, the petitioners elected to proceed with the public hearing.

Mayor Martin opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Robert D. Collier, representative of the Church of Jesus Christ of Latter Day Saints, said that the Church and Richard W. Woody have petitioned the City requesting that an unopened right-of-way known as Edgewood Road between Old Turnpike Road and Rosscraggon Road be closed as a public right-of-way. The right-of-way currently has a joint driveway utilized by Richard W. Woody and Church of Jesus Christ of Latter Day Saints and serves no other property owners with property fronting directly along the right-of-way.

Mayor Martin closed the public hearing at 4:19 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-64. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 287

B. **CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER**

RESOLUTION NO. 94-65 - RESOLUTION CONTINUING PUBLIC HEARING ON ORDER FOR REFUND FROM TCI CABLEVISION OF ASHEVILLE TO ITS SUBSCRIBERS

Assistant City Attorney Meldrum said that the City Council has previously determined that TCI Cablevision was charging more than it is permitted under FCC regulations in its rate schedule for basic service tier and related equipment, installation and service charges. On March 1, 1994, the City Council considered whether or not to order TCI to provide refunds to subscribers. As the FCC adopted new rules on February 22, 1994, which affect the rate schedule for basic service tier and related equipment, installation and service charges, the City Council continued this matter to April 5, 1994.

She briefed the Council on their three options available: 1) continue the public hearing until April 19, 1994, which would allow time for review of the new FCC rules by City staff; 2) go ahead and order the refunds to subscribers; or 3) do nothing - thereby not having any refunds ordered. It was City staff's recommendation to continue to public hearing until April 19, 1994.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-65, which continued this public hearing until April 19, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 289

C. PUBLIC HEARING RELATIVE TO REZONING 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

See statement made earlier at beginning of all public hearings.

D. PUBLIC HEARING RELATIVE TO A PARTIAL REZONING OF 353 LEICESTER HIGHWAY FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

See statement made earlier at beginning of all public hearings.

E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW BOARDING OF ANIMALS AT VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS

See statement made earlier at beginning of all public hearings.

F. PUBLIC HEARING RELATIVE TO A VARIANCE REQUEST FOR HIGHLAND BOULEVARD SUBDIVISION

Assistant City Attorney Meldrum said that despite the fact that the second notice which we customarily publish was not done as there is no statutory requirement for notice for this type of action, Attorney John Powell, property owner in the Highland Boulevard subdivision matter, elected to proceed.

Mayor Martin opened the public hearing at 4:24 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that the Planning and Zoning Commission on March 2,1994, reviewed the preliminary plat of the subdivision and recommended approval, subject to four conditions. The Commission recommended denial of a variance from the standard that all lots abut a publicly maintained street.

The owner of a 5.76 acre tract of land located on Highland Boulevard, off Smoky Park Highway, divided it into two parcels approximately 1 1/2 years ago. The subdivision was not presented to the City for approval, although it was in the City's area of jurisdiction. Upon applying for a zoning permit for a proposed development on one of the parcels, it was discovered that the subdivision had not been approved by the City.

The applicant is now requesting approval of the subdivision of the property, which is zoned LI Light Industrial. Two lots are proposed, with one lot to be 2.14 acres in size and the other to be 3.62 acres in size. No utility extensions are required to provide service to the lots. Access to the site is provided by Highland Boulevard, a private street. Highland Boulevard is paved and has a 60 foot right-of-way.

The applicant is requesting a variance from the requirement that lots in a subdivision abut a publicly maintained street. The applicant feels that he should not be required to bear the burden of upgrading the street. Denial of the variance request is recommended by the Planning and Zoning Commission, which feels the requirement is valid and that the upgrading of the street would benefit the applicant, adjacent property owners, and the community as a whole. Owners of other property served by Highland Boulevard have indicated a willingness to assist in the upgrading of Highland Boulevard.

Following the review of the preliminary plat, the Planning and Zoning Commission voted unanimously to approve the preliminary plat, without the requested variance, subject to the following four conditions:

1. Outline the boundary of lot one in heavy dark ink;
2. Indicate the easement for the sewer line located on lot one;
3. Receipt of letters confirming availability of utilities and fire protection; and
4. Upgrade Highland Boulevard, by private effort, to NCDOT standards and dedicate it to the public.

Vice-Mayor Peterson as if the City could grant the variance conditioned upon a statement that if the City annexes the property in the future, the City will not upgrade the road. Assistant City Attorney Meldrum felt that this present Council cannot bind future Councils in discretionary matters such as this.

Mayor Martin questioned whether we can grant the variance indicating that the people who own the property would not ask the City to upgrade the street. Assistant City Attorney Meldrum did not think this approach would work either.

Councilwoman Sitnick stated that for the record that Mr. John Powell is her attorney. She then asked that since the City can't bind another council by requesting that the petitioner not ask the City to upgrade the road, can the petitioner file some kind of legal agreement that says he will not ask this or any future council to upgrade. Assistant City Attorney Meldrum stated that she has not researched that particular question but felt that there may be problems with that approach.

Ms. Elizabeth Graham, member of the Planning & Zoning Commission, briefed the Council on their meeting as it related to this issue. She felt the Commission voted with misinformation about whether or not the petitioner does own the road. She then read a letter from Jim Torpey (member of the Commission who made the motion) which stated ... upon further review and additional viewing of the site, I would like you to accept the petitioner's request for the variance on the issue of the upgrading Highland Boulevard and its subsequent dedication to the City. ... unclear as to ownership of the road and this one owner should not be burdened with financial responsibility ...

City Manager Farris suggested that Council continue the public hearing until April 19, giving the Planning and Zoning Commission another opportunity to look at all the issues (Planning and Zoning Commission would be meeting the next day).

Councilman Swicegood felt that if the area is annexed, it will certainly bring in more tax base for the City.

Councilwoman Field asked Mr. Powell if he would be willing to take the lead and possibly find out who in fact owns the road. Perhaps if the people who are on the road and the owners all pitch in to upgrade the road, there might not be a problem at all.

Mr. John Powell, developer and property owner, responded to Councilwoman Field's suggestion by saying that he wouldn't mind researching that issue, but he did not want that to affect his ability to go on with his development. He said that he, personally, would be willing to sign a document that says he won't ask the City to do what is necessary to bring the road up to public standards if the property is annexed. He said that he will pave the portion in front of his property and possibly in the future the entire road might be able to meet state standards.

Mr. Green asked who would have the authority to construct the road since the tax maps show the roadway is a dedicated public right-of-way.

Councilwoman Sitnick said she made a site visit and, in light of the new information discovered, felt that it was unfair to burden one property owner with this financial responsibility.

Mayor Martin closed the public hearing at 4:54 p.m.

Councilman Swicegood moved to approve a modification for this subdivision to the subdivision regulation which requires that every lot in a subdivision abut a public street. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At the recommendation of City Manager Farris, it was the consensus of Council that a notation on the final plat show that the property owner does not intend to request the City of Asheville to take over and maintain the private street shown as "Highland Boulevard."

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-66 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR STATE BUILDING CODE ENFORCEMENT IN CITY AND COUNTY BUILDINGS

City Manager Farris said that this resolution authorizes a joint agreement that allows Buncombe County code enforcement officers to enforce the State Building Code in County-owned buildings inside the City, and authorizes Asheville code enforcement officers to enforce the State Building Code in city-owned buildings in Buncombe County.

State building code/inspection laws define who is authorized to enforce the State Building Code within the corporate limits of a municipality. Informally, Asheville and Buncombe County inspections staff have each allowed the other to enforce the State Building Code in buildings owned by the City or County, regardless of legal jurisdiction.

The City and County attorneys agree that, given statutory restrictions on the conditions which a code enforcement officer can act outside his or her own jurisdiction, it is in the best interests of Asheville and Buncombe County to formalize this practice by mutual agreement.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-66. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 291

B. RESOLUTION NO. 94-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER NO. 1 TO CONSTRUCTION CONTRACT 10 WITH APAC-CAROLINA ASHEVILLE DIVISION CONSTRUCTION SERVICES FOR STREET AND SIDEWALK REHABILITATION PROJECTS

City Manager Farris said that this resolution allows him to execute Change Order No. 1 to Contract 10 (increase of approximately $65,000) to allow for additional work by the Water Department to rehabilitate water lines in Boston Way and Kitchen Place while the streets are under construction. Funding for this change order will be totally reimbursed by the Asheville-Buncombe Water Authority.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-67. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 295

C. ORDINANCE NO. 2094 - BUDGET AMENDMENT RELATIVE TO MECHANICAL INSPECTION FEES TO BUILDING SAFETY DIVISION

City Manager Farris said that this budget amendment, in the amount of 102,600, appropriates funds received in the form of mechanical inspection fees to appropriate line items in the budget of the Division of Building Safety.

On July 1, 1993, the City assumed responsibility for mechanical inspections within Asheville's corporate limits. At the time, no provision was made within the budget to transfer fee income to Building Safety budget to recover the costs of delivering mechanical inspection services. This budget amendment makes that change. The City currently recovers 100% of the cost of delivering mechanical inspection services, which is consistent with City Council's inspections cost recovery policy.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2094. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2094 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 172

D. ORDINANCE NO. 2095 - BUDGET AMENDMENT RELATIVE COMPLETING THE REHABILITATION OF 58 BROADWAY

City Manager Farris said that this budget amendment will transfer $10,000 of Community Development grant funds from the Downtown Affordable Housing Project to Mountain Housing Opportunities (MHO) Downtown Housing Project. The original intent of the funding was a loan to 58 Broadway Corporation. The new intent of the funding is a grant to MHO for completion of the rehabilitation of the building located at 58 Broadway. The project will create five units of affordable rental housing and one space for commercial use.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2095. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2095 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 174

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 22, 1994, AND THE MINUTES OF THE COMMUNITY MEETING HELD ON MARCH 29, 1994

Councilwoman Sitnick asked that the approval of the minutes be withdrawn from the consent agenda for discussion. She asked that certain topics be added to the minutes from the meeting of March 29, 1994. Those topics are as follows: tax lots, stormwater runoff, concern about poor turnout to the meeting and also concern that there was only one member of the media present.

She also asked that an additional paragraph be added after the sentence relative to balancing the budget, as follows: Councilwoman Sitnick stated that her original budget vote was based on the fact that her instructions were clear that the Council was not going to balance the budget on the back of the taxpayer or the City's loyal employees. She requested that we look at every nickel and dime as to where we could save and cut waste before anyone's job was jeopardized. She had a list of several cost-cutting ideas and asked that all members of Council prepare a similar list in order that layoffs could be avoided.

Mr. Ralph Bishop asked if any member of Council wanted to change their mind as it related to their March 22, 1994, motion not requiring the City Clerk to take verbatim minutes of the City Council meetings. He felt that they were trying to abolish State law. He requested a certified copy of that motion. City Manager Farris said that he would be happy to furnish Mr. Bishop with a certified copy of that motion as soon as the minutes were approved.

Councilman Swicegood moved to adopt the minutes as amended by Councilwoman Sitnick. This motion was seconded by Councilwoman Field and carried unanimously.

B. MOTION SETTING A PUBLIC HEARING FOR APRIL 19, 1994, DESIGNATING PROPERTY KNOWN AS THE J.M. WESTALL HOUSE AND LOCATED AT 62 EDGEWOOD ROAD AS A LOCAL HISTORIC LANDMARK

C. RESOLUTION NO. 94-68 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MAY 3, 1994, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 17 KENDALL STREET

RESOLUTION BOOK NO. 21 - PAGE 296

D. MOTION SETTING A PUBLIC HEARING FOR APRIL 19, 1994, RELATIVE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM'S PROPOSED STATEMENT OF OBJECTIVES AND PROJECTED USE OF FUNDS FOR FISCAL YEAR 1994-95

Councilman Swicegood moved to adopt the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. DISABILITY REVIEW BOARD

At the request of Vice-Mayor Peterson, Councilman Swicegood moved to appoint Councilwoman Sitnick as the Council designee on the Disability Review Board. This motion was seconded by Councilwoman Field and carried unanimously.

B. COMMENTS BY MARTHA CALLOWAY

Ms. Martha Calloway, resident of 19 McCarthy Lane, stated that her neighbor blocks the road to her house. She asked how she could find out if the road is a public road and what can the City do to prohibit this man from blocking the road.

Mayor Martin instructed City Manager Farris investigate the concerns raised and follow-up with Ms. Calloway.

C. COMMENTS BY H. K. EDGERTON

Mr. H. K. Edgerton spoke in support of the empowerment zones and felt that $3,000,000 is not enough for Asheville.

D. COMMENTS BY DANIEL BREEN

Mr. Daniel Breen spoke about the importance of the solid waste program and the need for community meetings and public hearings.

City Manager Farris said that recycling is an issue for the Council on their April 26, 1994, community meeting at East Asheville Community Center at 7:00 p.m.

E. SOUTHERN OAKS SUBDIVISION

Mr. David Matney, attorney representing M. Realty Limited Partnership, requested Council to review the plat proposed for the subdivision on Hendersonville Road which has been known as "Southern

Oaks Subdivision." The Planning and Zoning Commission had voted to deny approval of the preliminary plat. He felt that, in looking at the ordinance, they could appeal the Planning & Zoning Commission's denial to the City Council.

Assistant City Attorney Meldrum said that, after consulting with the City Attorney and Planning Director, it was their determination that the appropriate forum would be to go back to the Planning & Zoning Commission with a revised plat which would comply with the subdivision regulations.

Ms. Elizabeth Graham, member of the Planning & Zoning Commission, explained why the Planning & Zoning Commission unanimously denied approval of the preliminary plat.

The City Council agreed that they should resubmit the plat to the Planning & Zoning Commission.

Since the notice requirements for them to resubmit a revised plat to the April 6 meeting of the Planning & Zoning Commission could not be met, the next regular meeting would be May 4, 1994. Mr. Matney said that the project could not wait until that date. Assistant City Attorney Meldrum suggested a special meeting of the Planning & Zoning Commission and Mr. Matney said that he would request that.

Councilwoman Field asked that the subdivision ordinance be straightened out to allow City Council to review preliminary plats when approval has been denied by the Planning & Zoning Commission.

F. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop questioned why Council rules say they will meet every Tuesday at 4:00 p.m., when they in fact do not. Mayor Martin instructed City Manager Farris to look into Mr. Bishop's comment.

He again requested the City Clerk provide him with verbatim minutes.

G. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of March 21-25, 1994: Diane Jennings (Sanitation), Ed Pearce (Sanitation), Wilfred Curtis (Streets), Jan Hunnicutt (Water), Harold K. Bennett (Streets), Gayle Brown (Sanitation), W.N. Wayne Erwin (Police), Wind in the Oaks (Fire), Margaret Lyon (Water), and Randy and Melba Queen (Police & Fire).

He also said that the following claims were received by the City during the week of March 28-April 1, 1994: J. C. Oxendine (Sanitation), Ron Brondyke (Water), Cindy Brockwell (Streets), John M. Young Ext. Co. (Streets), Jay Fine (Water) and Kathryn Gelder (Parks).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:45 p.m.

City Clerk

Mayor

Tuesday - April 19, 1994 - 4:00 p.m.
Asheville Civic Center - Banquet Room

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilwoman Barbara Field

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-69 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WADE COLE

City Manager Farris read the resolution stating that Wade Cole has been an employee for 18 years and has requested retirement from his position as Auto Mechanic. He expressed City Council's appreciation to Wade for his service to the City of Asheville and its citizens.

Resolution No. 94-69 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 297

B. RESOLUTION NO. 94-70 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD VINCIL

City Manager Farris read the resolution stating that Richard Vincil has been an employee for 12 years and has requested retirement from his position as Labor Crew Supervisor. He expressed City Council's appreciation to Richard for his service to the City of Asheville and its citizens.

Resolution No. 94-70 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 298

C. RESOLUTION NO. 94-71 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RAY RAGAN

City Manager Farris read the resolution stating that Ray Ragan has been an employee for 21 years and has requested retirement from his position as Traffic Signal Supervisor. He expressed City Council's appreciation to Ray for his service to the City of Asheville and its citizens.

Resolution No. 94-71 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 299

D. RESOLUTION NO. 94-72 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TOMMY PROPOST

City Manager Farris read the resolution stating that Tommy Propost has been an employee for 10 years and has requested retirement from his position as a Welder. He expressed City Council's appreciation to Tommy for his service to the City of Asheville and its citizens.

Resolution No. 94-72 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 200

E. PROCLAMATION PROCLAIMING APRIL 23, 1994, AS "HEALTHY KIDS DAY"

Mayor Martin proclaimed the week of April 23, 1994, as "Healthy Kids Day" in the City of Asheville.

E. PROCLAMATION PROCLAIMING MAY 1994 AS "MOTORCYCLE AWARENESS MONTH"

Mayor Martin proclaimed May 1994 as "Motorcycle Awareness Month" in the City of Asheville.

F. PROCLAMATION PROCLAIMING MAY 2-6, 1994 AS "RESPECT FOR LAW WEEK"

Mayor Martin proclaimed May 2-6, 1994 as "Respect for Law Week" in the City of Asheville.

G. PROCLAMATION PROCLAIMING MAY 5, 1994 AS "NATIONAL DAY OF PRAYER"

Mayor Martin proclaimed May 5, 1994 as "National Day of Prayer" in the City of Asheville.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO REZONING 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

ORDINANCE NO. 2096 - ORDINANCE TO REZONE 144 BEAVERDAM ROAD FROM R-1 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

Mayor Martin opened the public hearing at 4:25 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that a rezoning petition was submitted by David Thompson, representing Ada Deal Estate, requesting a change from R-1 (single family residential) to CG Commercial General for the 1.08 acre tract located at 144 Beaverdam Road (PIN No. 9740-15-53-1108).

The City's Planning staff has recommended that this rezoning be approved for the following reasons:

1. The 2010 Plan designates this property as being within a transitional area between the commercial business center at the intersection of Merrimon Avenue and Beaverdam Road and the institutional uses of Jones Elementary and Asheville Catholic School.

2. The CG Commercial General District is intended to serve the needs of the surrounding residential neighborhoods, while excluding businesses which may be nuisances.

3. The subject property is adjacent to CH Commercial Highway zoning.

4. The majority of the surrounding property is developed for non-residential use.

The Planning and Zoning Commission has considered this request and recommends that it be approved on a 6-1 vote.

A representative of Timbers Condominiums (consisting of 81 units), spoke in opposition of the rezoning request because they did not know how the property would be used and felt that there is already too much traffic on Beaverdam Road.

After Mr. Nicholson stated that the petitioner's proposed use of the property, City Attorney Slawter reminded the Council that in any rezoning the Council must be convinced that any use allowed in the new zoning designation must be appropriate for the site rather than merely the particular use that the applicant may have in mind since that use may change at any time.

At the request of Councilwoman Sitnick, Mr. Nicholson stated the uses allowed in the CG Commercial General District.

Dr. David Thompson, petitioner, read a statement to Council and a letter which he sent to the neighbors indicating how they extensively worked with the neighborhood addressed their concerns by meeting several times with the Grace Neighborhood Association. He also presented Council with three letters from clients who supported the rezoning request.

Dr. Jack Taylor also spoke in support of the proposed rezoning.

Councilwoman Sitnick expressed her appreciation to the petitioner working with the neighborhood on this rezoning. She asked that the traffic concerns be addressed.

Mr. Mike Lewis, President of Grace Neighborhood Association, also endorsed the rezoning request.

Mr. Frank Schepis, resident on Manetta Road, also spoke in support of the rezoning request.

Mayor Martin closed the public hearing at 4:55 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2096. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2096 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 176

B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW BOARDING OF ANIMALS AT VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS

ORDINANCE NO. 2097 - ORDINANCE AMENDING CHAPTER 30 TO AMEND CONDITIONS REQUIRED OF VETERINARY HOSPITALS AND CLINICS AS A CONDITIONAL USE IN THE CG COMMERCIAL GENERAL AND CH COMMERCIAL HIGHWAY DISTRICTS

Mayor Martin opened the public hearing at 4:58 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that this amendment would require that boarding of animals be permitted only within a totally enclosed building, operated by a licensed veterinarian and located on the same property where veterinary services are offered. The proposed amendment would apply within the CG Commercial General District and the CH Commercial Highway District.

Dr. Warren Riggle strongly supported the proposed amendment.

Mayor Martin closed the public hearing at 5:00 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2097. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2097 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 178

C. **PUBLIC HEARING DESIGNATING PROPERTY KNOWN AS THE J.M. WESTALL HOUSE AND LOCATED AT 62 EDGEWOOD ROAD AS A LOCAL HISTORIC LANDMARK**

ORDINANCE NO. 2098 - AN ORDINANCE DESIGNATING PROPERTY KNOWN AS THE J.M. WESTALL HOUSE AND LOCATED AT 62 EDGEWOOD ROAD AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 5:01 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Maggie O'Connor, Historic Resources Director, said that the Historic Resources Commission unanimously recommended to City Council that the James Manassas Westall House located at 62 Edgewood Road be designated as a local historic landmark.

James Manassas Westall was a native of Buncombe County. He was born in Reems Creek on September 11, 1861, and died in Asheville on January 10, 1943, at the age of 81. He was elected to the Asheville City Council in 1893 on the Businessman's Reform Ticket and elected Mayor of the Town of Woolsey, North Carolina, in 1903.

Before starting the Westall Lumber business in 1906, J. M. Westall was one of Asheville's premier builders and contractors from 1884 to

1906. He was known for his fine interior and exterior woodwork. Many of his buildings are still standing today such as: the Central Methodist Church on Church Street, Albemarle Inn on Edgemont Street, and several houses on East Chestnut including 184, 176, 166, 156, and 150.

Designation of this 1898 historic structure as a Local Historic Landmark makes the property owner eligible for a 50% reduction in property taxes. The Westall property taxes in 1993 were $2,941.76. If designated, property taxes would be reduced by $1,470.88 per year. In exchange for the property tax reduction, restrictions are placed on the property and improvements including: any landscaping, exterior of the former barn and the house, and the interior of the main house.

Any modifications to the structures or land must receive a Certificate of Appropriateness from the Historic Resources Commission. All modifications must follow the Secretary of the Interior's Standards for Rehabilitation.

Mr. Jack Westall gave a brief history of the house.

Councilman Watts thanked Mr. Westall for the tour of the house.

Mayor Martin closed the public hearing at 5:08 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2098. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 6-0, Ordinance No. 2098 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 179

D. PUBLIC HEARING RELATIVE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM'S PROPOSED STATEMENT OF OBJECTIVES AND PROJECTED USE OF FUNDS FOR FISCAL YEAR 1994-95

Mayor Martin opened the public hearing at 5:08 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Director of Community Development Marvin Vierra said that the City anticipates receiving $1,630,000 through the CDBG Entitlement Program for 1994-95. This represents a 10% increase from the current year. The total budget including $20,000 of program income will be $1,650,000. The City has received requests for CDBG funds totaling $2,440,895. The requests have been reviewed by the Housing and Community Development Committee. The Statement of Objectives was published in the newspaper on April 1, 1994. A public hearing was held on April 6, 1994, at Montford Community Center, at which time only two members attended.

The following is the proposed budget in the Statement of Objectives:

Affordable Housing Coalition	$ 45,500
HOPE-1 Implementation	142,000
Hill/Cherry (Head of Montford) area	144,000
City Wide Housing Rehab	384,000
Neighborhood Housing Services	110,378
Mountain Housing Opportunities-Homeownership	120,000
Home Site Acquisition	20,000
Habitat for Humanity - Land Acquisition	175,000
South Pack Square Redevelopment	110,000
Trinity Place Shelter	4,000
Hillcrest Enrichment Program	52,739
Vanderbilt Apartments	38,258
Asheville-Buncombe Community Relations Council	18,380
C.D. Planning	30,000
Minority Business Program	74,354
C.D. Administration	181,391
Total Budget	$1,650,000

Mr. Vierra answered Council's questions as they related to what some of the programs entailed, why the 10% increase, and increases or decreases over prior years.

Vice-Mayor Peterson and Councilwoman Sitnick stated that Council is dedicated to taking care of housing needs in this community.

In response to a concern of Mr. Daniel Breen, Mr. Rich Mathews, Director of Neighborhood Housing Services, stated that the funds they receive are distributed throughout the City and not just targeted to one or two areas.

When City Attorney Slawter was asked by Councilman McClure if he had a conflict of interest because he was on the Board of Directors for Neighborhood Housing Services, Mr. Slawter felt there was no conflict.

Mr. Larry Holt, representative of the Housing Authority of the City of Nashville, spoke about city-wide housing being a major objective and the continuing of assisted housing in the Montford community.

Upon inquiry of Councilman Watts, Mr. Holt said that through the modernization program several playgrounds were being upgraded and he would look into the area around Erskine Street Apartments.

When Vice-Mayor Peterson questioned about the monitoring at Hillcrest, Mr. Holt said that as soon as proper licensing is obtained, the monitoring will continue, which will be hopefully before school lets out.

Councilwoman Sitnick asked about the use of CDBG funds for the needed computers at Hillcrest. Mr. Vierra stated that the computers would not be an eligible expenditure of CDBG funds. However, City Manager Farris stated that they would be an eligible expense out of the City's general funds.

Mayor Martin closed the public hearing at 5:36 p.m.

E. CONTINUATION OF PUBLIC HEARING TO REVIEW THE SCHEDULE OF RATES AND CHARGES OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

RESOLUTION ORDERING TCI CABLEVISION OF ASHEVILLE TO PROVIDE REFUNDS TO SUBSCRIBERS

City Attorney Slawter briefed the Council on their actions to date and explained that this resolution would order TCI to provide a refund to subscribers back to September 1, 1993, as it relates to basic rates, which is approximately 22 cents a month. However, TCI has stated that if the Council orders the refund, they will increase other charges, where allowable, in order for them to become revenue neutral, thus resulting in 1/3 of their customers receiving a refund and 2/3's of their customers being charged more.

Mayor Martin closed the public hearing at 5:45 p.m.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

With no motion being made, the resolution died.

III. UNFINISHED BUSINESS:

A. FIRST READING OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

At the request of Stormwater Task Force, it was the consensus of Council to postpone this matter until May 3, 1994.

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-73 - RESOLUTION SUPPORTING ANTI-CRIME LEGISLATION BY CONGRESS TO STOP CRIME AND VIOLENCE IN OUR CITIES AND TOWNS

Councilwoman Sitnick stated that the resolution supports the enactment of anti-crime legislation by Congress so that resources and programs can be utilized to combat the crime problem in this nation.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-73. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 301

B. ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

At the request of City Manager Farris, Vice-Mayor Peterson moved to continue this matter until May 3, 1994. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Sitnick raised several questions which she hoped would be addressed prior to the matter coming up again before Council. She stressed that there needed to be citizen responsibility, not only City responsibility in this ordinance. In specific sections, she questioned who would pay for what and felt that penalties in some

instances would be warranted. She felt a provision of reimbursement to the City for administrative costs would be in order. City Attorney Slawter was able to address some of Councilwoman Sitnick's concerns when they related to statutory provisions.

C. RESOLUTION APPROVING INTERLOCAL AGREEMENT ON REGIONAL AIR POLLUTION CONTROL PROGRAM

At the request of City Manager Farris, Councilwoman Sitnick moved to continue this matter until May 3, 1994. This motion was seconded by Councilman McClure and carried unanimously.

D. ORDINANCE NO. 2099 - BUDGET AMENDMENT RELATIVE TO CLOSING OUT AND ADJUSTING VARIOUS PROJECTS IN THE STREET AND SIDEWALK IMPROVEMENT FUND

City Manager Farris said that this budget amendment, in the amount of $1,269,041, brings the Street and Sidewalk Fund into agreement with approved and preliminary cost estimates for all projects that either currently exist or that we anticipate will occur within the next 6 to 12 months. New appropriations are for the Sondley Estates Project and Contract No. 10. Amendments to these project budgets provide for a 5% contingency and the expected charges for engineering design and inspection. These adjustments also account for the expected cost of construction.

The other actions in this amendment allow us to close completed projects, Contracts 5, 9 (Patton Avenue) and 11.

Most of the revenue to support these changes is from unbudgeted water and sewer utility work (the main reasons for the change orders). The additional revenue is from the projected fund balance. Sufficient revenue exists in the fund to support these change.

Upon inquiry of Vice-Mayor Peterson about the sidewalks on Wellington, Public Works Director Jim Ewing explained why construction would probably begin in late summer.

At the request of Councilman McClure, Mr. Ewing said that the figure for the Sondley Estates Project does include the reimbursement of $100,000 from them for the street assessment process.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2099. This motion was seconded by Councilman McClure.

On a roll call vote of 6-0, Ordinance No. 2099 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 183

E. ORDINANCE NO. 2100 - BUDGET AMENDMENT RELATIVE TO CLOSING OUT AND ADJUSTING VARIOUS PROJECTS IN THE WASTEWATER MASTER PLAN FUND

City Manager Farris said that this budget amendment, in the amount of $530,592, sets up the appropriations for general engineering and right-of-way acquisition for minor sewer improvement projects that come

up regularly each year. This amendment also creates appropriations for expenses that have already been incurred, i.e., bad debt expense (an uncollectable from MSD on the Broadway sewer upgrade completed several years ago) and the Azalea Road project (a prior annexation project) which is now complete. This budget amendment brings the fund into balance with its actual expenses. The fund has actual revenues well beyond these appropriations. These revenues will be used for obligations created by pending annexations.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2100. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2100 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 185

F. ORDINANCE NO. 2101 - BUDGET AMENDMENT TO APPROPRIATE CDBG MATCHING FUNDS FOR NC STATE HISTORIC PRESERVATION OFFICE FACADE GRANT FUNDS

City Manager Farris said that this budget amendment will appropriate NC State Historic Preservation Office (SHPO) grant funds and CDBG matching funds for the South Pack Square Facade Program.

The City has recently received approval of a grant from SHPO in the amount of $5,000. Funding will be used for facade rehabilitation grants to property owners in the South Pack Square (Eagle/Market Streets) area. Matching funds for this grant in the amount of $7,440 will come from CDBG program income.

The maximum grant per property owner will be $2,000. The grant funds must be matched by the property owner. The maximum cost per project will therefor be $4,000.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2101. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2101 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 187

F. RESOLUTION AUTHORIZING STORMWATER IMPROVEMENTS

City Manager Farris said that this resolution would authorize the City Manager to spend approximately $16,000 to solve drainage problems associated with an expansion of the Blue Ridge Center.

He said Council may recall reviewing a group development permit for Blue Ridge Center. Unfortunately, a problem with off-site drainage was not identified during the review of the plans for the project. Blue Ridge is prevented from directing the runoff from the site to Biltmore Avenue by the NC DOT because the drainage in this area is not adequate.

An alternative is to use an existing 18" storm drain in Short Coxe Avenue/NC 25 at the rear of the site. This storm drain is not adequate to accommodate the volume of runoff to be generated on the Blue Ridge site, and downstream flooding or on-site flooding may result.

With the potential for creating flood problems, staff has not allowed Blue Ridge to connect to the Short Coxe Avenue/NC 25 storm drain without some provision for upgrade. Staff believes that the need for the upgrade is created by the project and that the project should bear the cost. However, we have offered to split the cost. The developer has not accepted this proposal and requests the City pay the full cost of the upgrade. He recommended Council no approve the resolution.

Councilman McClure, reviewing the Planning & Zoning Commission minutes of when they approved the group development, noted that the stormwater concern was brought up by the Public Works Department at that time. He noted that it was discussed, and thus, the developer knew the City had a concern about the stormwater runoff.

Councilwoman Sitnick felt the City should not split the cost of $16,000 since the stormwater runoff problems would be caused by the project.

Mr. Danie Johnson, architect and representative of Blue Ridge Services Inc., contended that they followed all the rules and obtained all required approvals for the group development. He noted that at the Planning & Zoning Commission meeting, they did discuss the stormwater concern, however, the Commission felt that the developer had adequately addressed that concern. He agreed that there is a problem with storm drainage in that area, however, they have already spent $2,600 for engineering and design work for a system to reduce the flow onto Biltmore Avenue.
He said that on March 22, 1994, City Council accepted the Planning & Zoning Commission's report with no mention of the stormwater runoff problem. Now, they cannot obtain a street cut permit until the Public Works Department's concerns are resolved. He appealed to Council to reaffirm the established procedures and allow them to proceed without further hindrance. He felt the issue at this meeting was whether or not owners who comply with the established procedures can rely on the process.

Ms. Elizabeth Graham, member on the Planning & Zoning Commission, explained, to her recollection, that portion of the meeting.

Mr. Daniel Breen felt the City should not contribute any funds to this project and hoped Council passed a stormwater control ordinance soon.

Councilwoman Sitnick stated that the matter before the Council was whether or not to spend $16,000 or $7,500 for the project, not to reinforce established procedures.

City Manager Farris stated that if the City contributes $7,500 to the project, it would be consistent with Council's stormwater policy which was adopted in 1992.

Councilman Swicegood felt it was perhaps an oversight of staff not to mention the stormwater concern when the matter was brought up for Council approval. He then moved to contribute $7,500 for the project which he felt was more than fair. This motion was seconded by Councilman McClure.

Mr. Johnson stated that his client would not accept the City's offer to split the cost.

As a result of Mr. Johnson's statement, Councilman Swicegood withdrew his motion to contribute $7,500 to the project. Councilman McClure then withdrew his second.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Due to lack of a motion, the resolution died.

City Manager Farris reaffirmed that the City will continue to enforce their existing stormwater policy, which as it currently reads will prevent Blue Ridge Center from connecting to the Short Coxe Avenue/NC 25 storm drain without some provision for upgrade.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 31, 1994, AND APRIL 5, 1994

B. RESOLUTION NO. 94-74 - AWARDING OF BIDS RELATIVE TO ANNUAL CONTRACT FOR ASPHALT MATERIALS

Summary: Sealed bids were invited to furnish the City's estimated annual requirement of asphalt materials for force account re-surfacing and street repair. One bid was received. Staff recommends entering into a contract with Asheville Division, APAC-Carolina Inc. for the purchase on an as needed basis only of approximately 6,550 tons assorted asphalt materials for a total of $163,750. A copy of the complete bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 21 - PAGE 302

C. RESOLUTION NO. 94-75 - AWARDING OF BIDS RELATIVE TO 10 BUS SHELTERS FOR THE ASHEVILLE TRANSIT AUTHORITY

Summary: Sealed bids were invited to furnish the Asheville Transit Authority with ten 6' x 12' bus shelters. Three bids were received. Staff recommends entering into a contract with the low bidder, Columbia Equipment Company Inc., Jamaica, N.Y., for ten Columbia Model 6x12SP bus shelters at $3,815 each for a total bid of $38,150. A copy of the complete bid summary is attached hereto as Exhibit "B".

RESOLUTION BOOK NO. 21 - PAGE 304

D. MOTION TO SET A PUBLIC HEARING ON MAY 3, 1994, RELATIVE TO AN APPEAL OF THE DECISION OF THE PLANNING AND ZONING COMMISSION RECOMMENDING DENIAL OF A REQUEST TO REZONE 10 LOTS ON CLINGMAN AND JEFFERSON FROM R-3 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

E. RESOLUTION NO. 94-76 - RESOLUTION APPOINTING MIKE HOLCOMBE TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: This resolution will appoint Mike Holcombe, City's Director of Water Resources, to the MSD Board, to fill an unexpired term left by Charles Penny. His term will expire January 19, 1997, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 306

F. RESOLUTION NO. 94-77 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A GRANT AGREEMENT WITH THE NC STATE HISTORIC PRESERVATION OFFICE FOR FACADE GRANT FUNDING

Summary: See above Ordinance No. 2010.

RESOLUTION BOOK NO. 21 - PAGE 307

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Tony Nicholson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on April 6, 1994:

SOUTH ASHEVILLE CINEMAS (ADDITION)

Mr. Nicholson said the South Asheville Cinemas is proposing the addition of two new cinemas to be located at the northeast corner of the existing building. The 8,000 square foot addition will entail a total of 654 new seats. While the property and all surrounding lots are contained within the Commercial Highway zoning district, surrounding land uses include commercial/retail, multi-family residential, and future offices. The proposed site plan meets or exceeds the minimum requirements of the zoning ordinance and the Fire Department has approved the availability of adequate fire protection for the addition.

At their April 6, 1994, meeting, the Planning and Zoning Commission voted to recommend approval of the South Asheville Cinemas addition with one condition, i.e., a letter confirming sewer availability must be obtained.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

ST. JOSEPH'S HOSPITAL ADDITION TO RELOCATE THE CRITICAL CARE UNIT

Mr. Nicholson said that the proposal is for a 16,500 square foot, one-story addition to be located on the north side of the main hospital building which will house the hospital's Critical Care Unit. Additionally, the proposal involves the extension of an existing private drive. Access to the proposed addition will be from Biltmore Avenue. This site is zoned Office Institutional and the site plan meets all requirements of the City's zoning ordinance. Availability of fire protection and water availability have been approved. A sewer allocation has been applied for, but not yet received. This project has been properly advertised and there has been no public comment.

At their April 6, 1994, meeting, the Planning and Zoning Commission voted to unanimously recommend approval of the site plan with

one condition, i.e., that a sewer allocation be approved by the Metropolitan Sewerage District. He said that this condition has been met.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. SHILOH RESIDENTS ASSOCIATION

Mr. Washington, President of the Shiloh Residents Association, and others in the Shiloh community, urged Council to not to cease the concession stand at the Shiloh ballfield. They said that concession stand supports the finances for the Shiloh Community Enrichment Program which employs 70 children in the community. Shiloh ballfield is the only ballpark concession stand that uses revenues to create employment for the youth in the area. They urged Council to find a solution so that the concession stand will continue to operate.

Mayor Martin instructed the City Manager to meet with the Shiloh Residents Association and the Director of Parks and Recreation to come up with a solution to their concerns.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of April 4-8, 1994: Reva McMahan (Sanitation), Sidney Feldman (Water), Richard Cook (Water), and Stephanie Christiansen (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

D. LAWSUITS

City Manager Farris said that the following lawsuits have been received by the City. (1) April 12, 1994 - Gregory G. Armento (copyright infringement and unfair and deceptive trade practices); (2) April 13, 1994 - Housing Authority v. Bates (condemnation); (3) April 13, 1994 - Housing Authority v. Jordan (condemnation); and (4) April 14, 1994 - Housing Authority v. Palyok (condemnation).

He said these lawsuits have been turned over to the appropriate legal counsel for action.

VII. RECESS:

At 7:02 p.m., Mayor Martin recessed the meeting until 12:00 Noon on Wednesday, April 20, 1994, at the Horticultural Research Station near the Asheville Airport, to consider a resolution of intent to study the creation of a regional water and sewer authority.

CITY CLERK

MAYOR

BID SUMMARY — CITY OF ASHEVILLE — BID OPENED: MARCH 15, 1991 3:00 P.M.

BID REQUEST NO. 125-91 — CONTRACT FOR BITUMINOUS CONCRETE MATERIALS (ASPHALT)

ASHEVILLE DIVISION, APAC-CAROLINA, INC.

	UNIT PRICE	AMOUNT	DELIVERY	TERMS	BID DEPOSIT
SECTION I - STREET SURFACE PROGRAM 5000 Tons Bituminous Concrete Surface Course - Type I-2	$25.00/ton	$125,000.00	Pick up as needed		
SECTION II - PAVEMENT & PATCHING PROGRAM - 1550 Tons Bituminous Concrete Materials - Type HB, Type F-1, Type H, Type I-1, and Type I-2	$25.00/ton	$38,750.00	Pick up as needed	Less 1.00 Per Ton If Paid Within 15 Days-Net 30	5% Bid Bond
TOTAL BID		$163,750.00			

Exhibit "A"

MARKET SURVEY FOR SURFACE COURSE, TYPE I-2 (MATERIALS ONLY - PRICE PER TON F.O.B. VENDOR'S PLANT)

CITY	TONNAGE	PRICE PER TON	CONTACT
Hickory	19,000	$25.10	Wayne Wood
Boone	10,000	$27.50	Blake Brown
Concord	11,500	$21.30	Bill Barringer
Charlotte	12,500	$18.75	Bill Shehe
Hendersonville		$25.00	Raymond Drake
N.C. DOT - District Office	6,000	$27.00	Mr. Bragy

///

BID SUMMARY
BID REQUEST NO. 428-94

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: WEDNESDAY, MARCH 30, 1994

TEN (10) BUS SHELTERS FOR CITY OF ASHEVILLE/ASHEVILLE TRANSIT AUTHORITY

BIDDER	COLUMBIA EQUIPMENT CO. INC. JAMAICA, NEW YORK	MIDWEST AMERICAN SHELTER SYSTEMS AKRON, OHIO	BRASCO INTERNATIONAL INC. DETROIT, MICHIGAN
ITEM A: 10) 6' X 12' BUS SHELTERS			
MANUFACTURER:	Columbia	Midwest	Brasco International Executive Series
MODEL:	6 X 12 SP	MC - Heavy Duty	612-21SW
UNIT PRICE:	$3,815.00	$4,280.00	$4,725.00
AMOUNT:	$38,150.00	$42,800.00	$47,250.00
DELIVERY:	65 - 95 Days	70 - 90 Days	60 - 90 Days
TERMS:	1/2%10/Net 30	1%10/Net 30	2%10, 1%15, 1/2%20/Net 30

EXHIBIT "B"

Wednesday - April 20, 1994 - 12:00 Noon
Horticultural Research Station near Asheville Airport

Continuation of Regular Meeting of April 19, 1994

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Leni Sitnick and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilwoman Barbara Field, Councilman Gary McClure and Councilman Joseph Carr Swicegood

RESOLUTION NO. 94-78 - RESOLUTION OF INTENT TO STUDY THE CREATION OF A REGIONAL WATER AND SEWER AUTHORITY

Mayor Martin read the resolution and explained that it is the intent of Buncombe and Henderson counties, the cities of Asheville and Hendersonville, the Asheville-Buncombe Water Authority and the Metropolitan Sewerage District to adopt A resolution to study the creation of a regional water and sewer authority to serve the citizens within the communities represented. He said the staff of each governmental entity is directed to study and draft an agreement to create a regional water and sewer authority for recommendation to the governmental entities.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-78. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 308

ADJOURNMENT

Mayor Martin adjourned the meeting at 1:35 p.m.

William F. Wolcott, Jr.
CITY CLERK

Russell Martin
MAYOR

Tuesday - April 26, 1994 - 7:00 p.m.
East Asheville Community Center

Community Meeting

Present: Vice-Mayor Chris Peterson, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Mayor Russell Martin and Councilwoman Leni Sitnick

Ms. Vicki Heidinger, Executive Assistant in the Audit/Budget Department, presented the Council with the Solid Waste Management Program. She stressed the importance of public involvement and answered questions raised by Council and the public.

As a result of a question raised, Police Chief Will Annarino reported on the community policing program.

The following topics were raised by residents and addressed by Council and City staff: packaging waste, water leaks, concerns over the Asheville Police Department, need for additional ballfields, patching on Beverly and Ambler Roads, speed limit reduction on some streets in Redwood Forest, whistleblower act for city employees, need for sidewalks around Oakley School, entertainment tax, request by City to NC DOT regarding Liberty Street upgrade, sidewalks being torn up and replaced when not necessary, no sidewalks on Chunns Cove Road, projects not necessary (Broadway Avenue Project), independent audit firm to find City waste, verbatim City Council minutes, request for information concerning complaint at 39 Pleasant Ridge Drive, speed breakers on Ambler Road, favoritism of services to other areas of the City, and taxing tourists instead of city residents,

At 9:17 p.m. Vice-Mayor Peterson adjourned the meeting.

William F. Wolcott, Jr.
CITY CLERK

MAYOR

Tuesday - May 3, 1994 - 4:00 p.m.
Room 623 - City Hall Building

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. SISTER CITY

Mr. Ken Shapiro, President of the Asheville Sister Cities, announced that Asheville's new Sister City is San Cristobal de Las Casas, Chiapas, Mexico, and appreciated Council's support of the Sister City Program.

B. PROCLAMATION PROCLAIMING MAY 14, 1994, AS "YOUTH UNITY DAY"

Mayor Martin proclaimed May 14, 1994, as "Youth Unity Day" in the City of Asheville. He presented it to Ms. Oralene Simmons who briefed the Council on activities that would take place.

C. PROCLAMATION PROCLAIMING MAY, 1994, AS "EDUCATOR APPRECIATION MONTH"

Mayor Martin proclaimed May, 1994, as "Educator Appreciation Month" in the City of Asheville.

D. RESOLUTION NO. 94-79 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE IRENE TALBOT

City Manager Farris read the resolution stating that Irene Talbot has been an employee for 15 years and has requested retirement from her position as a Personnel Clerk. He expressed City Council's appreciation to Irene for her service to the City of Asheville and its citizens.

Resolution No. 94-79 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 309

E. RESOLUTION NO. 94-80 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TROY CALLOWAY

City Manager Farris read the resolution stating that Troy Calloway has been an employee for 30 years and has requested retirement from his position as a Fire Captain. He expressed City Council's appreciation to Troy for his service to the City of Asheville and its citizens.

Resolution No. 94-80 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 310

F. RESOLUTION NO. 94-81 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CHARLES WHITTEN

City Manager Farris read the resolution stating that Charles Whitten has been an employee for 22 years and has requested retirement from his position as a Fire Captain. He expressed City Council's appreciation to Charles for his service to the City of Asheville and its citizens.

Resolution No. 94-81 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 311

ANNOUNCEMENT- SHILOH CONCESSION STAND

City Manager Farris announced that the City would provide money on a one time basis for the payment for umpires to South Asheville and allow the Shiloh community to continue the concession stand.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO THE DEMOLITION OF 17 KENDALL STREET

ORDINANCE NO. 2102 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING LOCATED AT 17 KENDALL STREET

Mayor Martin opened the public hearing at 4:10 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Inspections, said that on May 25, August 4, and August 28, 1994, the Building Safety Division inspected 17 Kendall Street and found that it was unfit for human habitation. Inspection revealed that the dwelling is damaged by structurally unsound walls and floors, no second exit, infestation of rats and roaches, broken window panes, leaking roof, inadequate heating and no electrical and plumbing systems.

A resident on Kendall Street spoke in support of the demolition and asked that prior to it being torn down, could it be fumigated first to kill the rats.

When Vice-Mayor Peterson asked if the City had a fumigation policy, Mr. Trantham said that the City did not, however, they would hire an exterminator for the fumigation.

Mayor Martin closed the public hearing at 4:15 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2102. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2101 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 189

B. PUBLIC HEARING RELATIVE TO THE REZONING OF 10 LOTS ON CLINGMAN AND JEFFERSON

Mayor Martin opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that Clarence and Barbara Birmingham, Angela Dotsikas and W.S. Harrison requested a change from R-3 Medium Density Residential to CS Commercial Service for ten contiguous lots totaling 1.49 acres located between Clingman Avenue and Jefferson Drive. Those lots are identified as PIN Nos. 9648-05-08-4174, 9648-05-08-5346, 9648-05-08-4287, 9648-05-08-5223, 9648-05-08-5127, 9648-05-08-4179, 9648-05-08-4311, 9648-05-08-3186, 9648-05-08-4069, and 9648-05-08-3292.

The City Planning staff has recommended that this rezoning be denied for the following reasons:

1. There is strong support for medium to high density residential development at this location in both the 2010 Plan and the Riverfront Plan.

2. Development directly across Clingman Avenue from this property is a continuous front of single family homes.

3. The uses permitted by CS Commercial Service zoning would not be compatible with adjacent small scale moderate traffic-carrying deficiency by the year 2020. May uses permitted in CS would generate more traffic than medium density residential development.

4. This property serves as a gateway to the riverfront. Many uses permitted within the CS district would not enhance this gateway.

The Planning and Zoning Commission has considered this request at two public hearings and has recommended, by unanimous vote, that the requested rezoning be denied. Considerable opposition has been expressed to the requested rezoning by adjacent property owners and the general public.

Ms. Elizabeth Graham, member of the Planning & Zoning Commission, explained the reasoning why the Planning & Zoning Commission denied the requested rezoning. She personally felt that the zoning needed to be changed at some point. Soon the City will have the UDO and some comprehensive rezoning and perhaps whole area may be looked at with an entirely different zoning classification.

Ms. Jean Webb, Chairperson for RiverLink, urged Council not to rezone these lots and spoke about the revitalization of the entire area.

Mr. Dennis Hodgson, Board member for RiverLink, spoke in opposition of the rezoning. He stated, among other things, that Clingman is and always have been a residential neighborhood. He cited a letter from MSD that said there was a sewer line in the ravine and if the applicant would want to fill it over, they believed it is in such poor condition that it would not be able to support the fill.

Ms. Julia Daniels, speaking on behalf of her uncle James Glenn who is the owner of three homes on Clingman Avenue, spoke in opposition of the rezoning. She said her uncle has just had one home renovated with aluminum siding and he did not want to have a radiator shop across the street. She felt that the residents on Clingman are elderly and live on fixed incomes and when they can afford to upgrade their homes, they do not want an eyesore in their neighborhood.

Mr. Howard Hanger spoke against the rezoning and felt that the neighborhood is developing slowly but in a good direction.

Ms. Jessie Mae Jones, 104 Clingman Avenue, spoke in opposition of the rezoning.

Mr. Ron Payne, attorney representing the petitioners, urged Council to rezone the property. He felt that in order for the property to be utilized, it will require substantial expenditures and no one will spend that kind of money required to utilize the lots under the current R-3 zoning classification. He said Mr. Birmingham intends to build a retail and wholesale establishment of radiators, not a service shop as he currently operates on Eagle Street. He said this property is not riverfront property and passed out pictures showing the terrain and the heavy industrial uses in the area. He stressed that R-3 district is not the highest and best use of the property.

Upon inquiry of Councilwoman Field regarding Council's goal of providing affordable housing, Mr. Larry Holt, Deputy Executive Director of the Housing Authority, said that the Housing Authority does not own any property in the area but felt that these homes are just a few of the remaining affordable residences in the downtown area. He said the Housing Authority would like to see the area remain residential.

Ms. Frances Owens, owner of two houses on Clingman, spoke in opposition of the rezoning.

Mr. Clyde Leeson suggested that perhaps the City or the Housing Authority might trade some of their property for the Birmingham's property.

Mr. Benson stated that he did not know the status or type of inventory the City had.

Mr. Payne clarified statements surrounding Mr. Birmingham's purchase of more property in that area and the reasoning behind the purchase.

Rev. Lynwood Leverette also felt that a trade of City property might be in order.

Mayor Martin closed the public hearing at 4:54 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

The matter died for lack of a motion.

III. UNFINISHED BUSINESS:

A. **FIRST READING OF AN ORDINANCE REGULATING CONTROL OF STORMWATER**

Councilwoman Sitnick moved to continue this matter until May 17, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

B. **ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

Vice-Mayor Peterson moved to continue this matter until May 17, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

IV. NEW BUSINESS:

A. **ORDINANCE NO. 2103 - AN ORDINANCE ESTABLISHING A POLICY OF NON-DISCRIMINATION WITHIN THE CITY OF ASHEVILLE**

Councilwoman Sitnick read the ordinance which would establish a policy of the City of Asheville to oppose any discrimination on account of race, gender, age, color, ethnic visage (Native American, Hispanic, Asian, etc.), sexual orientation, duration in the community, heritage, national origin, student status, religion, citizenship, veteran status, political affiliation, physical manifestation, physical disability or mental disability. It would direct the City Manager to establish an administrative policy in order to prohibit the aforesaid discriminatory practices within the employment practices of the City of Asheville, except to the extent that said factors might constitute bonafide occupational qualifications for the relevant job classification. All citizens of the City, individual and corporate, are requested and urged to use their power and influence to the end that this City shall be one of equal opportunity for all citizens.

The ordinance would be implemented by the establishment of an administrative policy as the City Manager is directed to adopt. Violation of the policy would thus be enforced through normal City disciplinary measures. The ordinance imposes no obligation upon persons outside City employment, but does encourage a community-wide commitment to equal rights.

Vice-Mayor Peterson moved to amend the ordinance by inserting "martial status" after veteran status in the classifications. This motion was seconded by Councilwoman Sitnick and carried on a 5-2 vote, with Councilmen McClure and Swicegood voting "no".

Councilman McClure felt that lawsuits are filed against the City because of ambiguity and adoption of this ordinance possibly might give rise to more of these type suits being filed against the City. He questioned the definitions of "physical manifestation" and "sexual orientation". He stated his concerns of the liability issue.

When Councilman McClure asked if the City discriminates under any of these categories, City Manager Farris said that to his knowledge, there is no institutionalized policy, ordinance or procedure in the City.

Councilman McClure stated several sections under the Constitution which he felt already covered this ordinance and he felt that because the Constitution is supreme to all other laws in the land, there is no need for the City to adopt this ordinance. He stated that discrimination will not be tolerated.

Councilwoman Sitnick felt that since the Constitution already covers discrimination, there is no harm in going beyond the general statement that equal protection shall be provided for all and to specifically state different areas of life in which there shall be specifically no discrimination. She mentioned several civil rights acts that have the Constitution.

Upon inquiry of Mayor Martin, City Attorney Slawter said that numerous cities in North Carolina have a similar provision of the law. He said that our ordinance follows largely what Raleigh has adopted, except our ordinance is significantly narrowed the scope in that this ordinance is totally internal within the City's personnel policy.

Councilwoman Sitnick stated that not only did several cities in North Carolina have non-discrimination ordinance, but over 85 cities in the country had them.

Councilman Watts said that he personally would like to research this matter further and commended Councilwoman Sitnick's thorough research into the matter.

Councilwoman Sitnick found it difficult to understand how the issue of discrimination and fairness to our fellow humans needed more study. She said that she was assured that a section in the ordinance covers the City on liability issues. She stressed that this ordinance is not granting rights to anyone and not condoning anything - only an ordinance against discrimination.

The following persons spoke in support of the ordinance:

Bob Smith, Asheville-Buncombe Community Relations Council
Monroe Gilmore, WNC Citizens for an End to Institutional Bigotry
Father Andrew Gentry, Priest in Charge of St. Seraphim Orthodox Catholic Church
Betsy Mayer, representing Women Outdoors and also representing Visiting Health Professionals
Joe Webster, representative of the NAACP
Andy Reed, Secretary of Social Concerns Committee at the Unitarian Universalist Church of Asheville
Rusty Person, resident of the City of Asheville
Joan Marshall, one of the clergy of All Souls Episcopal Church, representing Asheville Area Religious Network for Gay and Lesbian Equality and representing Parents and Friends of Lesbians and Gays
Anna Holleman, citizen of City of Asheville
Dr. Carol Horn, member of the Unitarian Universalist Church of Asheville
Jean Inglard
Jewish Community Relations Council of the WNC Jewish Federation - letter read by Councilwoman Sitnick

The following persons spoke in opposition to the ordinance:

Rev. Wendall Runion, Pastor of the Asheville Baptist Tabernacle
Bill Horton
Dotty Stickney
Carol Collins
Tim Brady

At 6:00 p.m. Mayor Martin stopped taking comments and thanked everyone for their opinions.

Councilwoman Sitnick read a prepared statement stating again that this is not a gay rights ordinance. Among other things, she felt it is our patriotic duty to eliminate discrimination from our government and from our community. This Council must speak out about the collective character of our City and if we, as elected leaders, don't take a stand against discrimination then we are responsible for the consequences of it. A Spring 1993 Gallup Poll showed that 80% of Americans support an all inclusive nondiscrimination ordinance.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2103. This motion was seconded by Councilwoman Field.

On a roll call vote of 4-3, with Councilmen McClure, Swicegood and Watts voting "no", Ordinance No. 2103 passed on its first reading

B. ORDINANCE NO. 2104 - ORDINANCE AMENDING ARTICLE 6 OF CHAPTER 9 OF THE CODE OF ORDINANCES REGULATING ELECTRICIANS AND MOTION PICTURE OPERATORS

City Manager Farris said that over recent years, the Motion Picture Operators Board of Examiners has become inactive. The primary reason for this inactivity is technological change - movie film is now plastic, rather than extremely combustible cellulose, and motion picture projectors have become simpler to operate over the years.

Based on this inactivity, deletion of references of motion picture operators is recommended.

This ordinance also includes minor changes to provides regulating electricians. For example, reference is made in the present ordinance to a "superintendent of electrical affairs," a position which has not existed for a number of years. The proposed ordinance changes the reference to the "superintendent of electrical affairs" to the "director of building safety".

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2104. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2104 passed on its first and final reading.

C. ORDINANCE NO. 2105 - ORDINANCE REDUCING THE SPEED ON LOGAN AVENUE, KENDALL STREET, BRUCEMONT CIRCLE, CROWN STREET, WESTCHESTER DRIVE, CHATHAM ROAD, AND ROSE STREET FROM 35 MPH TO 20 MPH AND ON CROCKETT AVENUE FROM 30 MPH TO 20 MPH

City Manager Farris said that the traffic engineer has investigated the following streets for possible reduction in their speed limits: Logan Avenue, Kendall Street, Brucemont Circle, Crown Street, Westchester Drive, Chatham Road and Rose Street. He has determined that the speed limits on those street be reduced from 35 mph to 20 mph.

Councilman Watts moved to amend the ordinance to also reduce the speed limit on Crockett Avenue from 30 mph to 20 mph. This motion was seconded by Councilman McClure and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2105. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2105 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 197

D. RESOLUTION APPROVING INTERLOCAL AGREEMENT ON REGIONAL AIR POLLUTION CONTROL PROGRAM

At the request of the City Manager, Councilman Swicegood moved to continue this matter until May 17, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON APRIL 19, 1994, APRIL 20, 1994, AND APRIL 26, 1994

B. RESOLUTION NO. 94-82 - RESOLUTION ENDORSING APPOINTMENTS OF MEMBERS TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: This resolution will endorse the Mayor's reappointment of Mabel O. Hoskins and Cleatus B. Tate as members of the Housing Authority of the City of Asheville. Their terms will expire June 11, 1999.

RESOLUTION BOOK NO. 21 - PAGE 312

C. RESOLUTION NO. 94-83 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY TO ACCEPT A BID TO PURCHASE 143 BLANTON STREET

Summary: The Housing Authority has tentatively accepted the bid of Mountain Housing Opportunities in the amount of $19,000 to purchase 143 Blanton Street. The bid is equal to the established fair reuse value. 143 Blanton Street is a house and lot which was acquired by the Housing Authority in accordance with a resolution of City Council for the purpose of preserving the vacant structure for rehabilitation. The redeveloper proposes to rehabilitate the structure to be offered to a low income home buyer under the redeveloper's Affordable Home Ownership Program.

RESOLUTION BOOK NO. 21 - PAGE 313

D. RESOLUTION NO. 94-84 - RESOLUTION AUTHORIZING SUBMISSION OF A FINAL STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES AND PROJECTED USE OF FUNDS TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT FUNDS FOR 1994-95

Summary: A public hearing on this matter was held on April 19, 1994.

RESOLUTION BOOK NO. 21 - PAGE 314

E. RESOLUTION NO. 94-85 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & COMPANY FOR AUDITING SERVICES FOR FISCAL YEAR 1993-94

Summary: This will authorize the Mayor to execute a contract, the form of which shall be approved by the Local Government Commission, with Crisp, Hughes & Company, Certified Public Accountants, in the amount of $40,800 for auditing services for fiscal year 1993/94.

RESOLUTION BOOK NO. 21 - PAGE 315

F. RESOLUTION NO. 94-86 - RESOLUTION TO AWARD ONE MINI-VAN FOR THE ENGINEERING DEPARTMENT

Summary: The City Manager deleted this seven passenger mini-van from the bid request on February 15, 1994. Subsequently, approval has been given the Engineering Department to proceed with this recommendation. Two bids were received. Bids were opened on January 21, 1994, and have been extended through May 6 1994. Staff recommends awarding the contract to the low bidder, Matthews Ford, Inc., Asheville, North Carolina, for one 1994 Ford Aerostar in the amount of $13,649. A complete copy of the bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 21 - PAGE 316

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. BLUE RIDGE CENTER

City Manager Farris requested authorization by Council for the City to share in the cost for improving storm drain problems associated with an expansion of the Blue Ridge Center. He said that total project would be approximately $16,000 and Blue Ridge Center will be requested to contribute $7,500 for materials and the City will contribute $8,500 in force account work.

Councilwoman Sitnick moved to authorize the City Manager to proceed with the cost-sharing in the Blue Ridge Center storm drainage problem as specified in the above paragraph. This motion was seconded by Councilman Watts and carried on a 6-1 vote, with Councilman Swicegood voting "no".

B. BILTMORE DAIRY FARMS INC.

City Attorney Slawter briefed the Council on the Biltmore Dairy Farms development.

Councilwoman Field moved to authorize the Mayor to execute an agreement with Buncombe County and a separate agreement with both Buncombe County and Biltmore Dairy Farms Inc., providing for participation by the City in the cost of construction of a sewer interceptor line across property of Biltmore Dairy Farms Inc.; provided that the cost to the City shall not exceed $185,000. This motion was seconded by Councilman McClure and carried unanimously.

C. COMMENT BY GREG KELLER

Upon inquiry of Mr. Greg Keller, City Manager Farris stated that the City Council has received a full report regarding the investigation performed by the Police Chief regarding recent activities.

D. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville from April 9 through May 5, 1994: April Ellis (Civic Center), Forest Fox (Water), William Haynes (Water), Kenneth Burnette (Water), Pine Ridge Apartments (Sanitation), Kathy Ledford (Water), Buddy Gaither/Milco (Water), Darrell Chapman (Fire), Ed Sikorski (Water), Gregory Armento (Downtown Development), Phillip Nix (Water), Shirley Dozier (Inspections/Planning), Ashley Brewer (Police), Betty Smith (Water), Kenny Pipe and Supply (Water), Southern Bell (Water), Vicki Patton (Meter Services), Mark Brown (Parks), Terry Morrow (Water), and Wallace Boston (Police).

He said that these claims would be referred to the appropriate insurers for investigation.

E. LAWSUIT

City Manager Farris said that the City was served with the following lawsuit on April 26, 1994: Janet A. Frommer v. Sayer and City of Asheville (personal injury/auto accident).

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at ~~6:22~~ p.m.

William D. Holcate, Jr.
CITY CLERK

MAYOR

BID SUMMARY

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: FRIDAY, JANUARY 21, 1994 3:00 P.M.

BID REQUEST NO. 423-94

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		MATTHEWS FORD ASHEVILLE, NC	PARKWAY CHEVROLET ASHEVILLE, NC	CAROLINA TRK. & BODY ASHEVILLE, NC	MAP ENTERPRISES BURLINGTON, NC	BAKER EQPT. ENG. RICHMOND, VA
1. (1) Seven Passenger Mini Van for the Engineering Department	MAKE:	1994 Ford	1994 Chevrolet			
	MODEL:	Aerostar Wagon	CM10906			
	AMOUNT:	$13,649.00	$14,498.00	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days	45 to 60 Days			
	EPA MPG CITY:	17	16			
	ENERGY EFF.					
	COST* (EA)	$17,178.41	$18,248.00			
2. (1) 4-Wheel Drive, 4-Door Utility Type Truck for the Fleet Management Div.	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$20,247.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF.					
	COST* (EA)	$24,247.00				
2.A. (1) 4-Wheel Drive, 2-Door Utility Type Truck for the Fleet Management Div.	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$19,478.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF.					
	COST* (EA)	$23,478.00				
3. (1) 4-Wheel Drive, 2-Door Utility Type Truck for the Street Division	MAKE:	1994 Ford				
	MODEL:	Explorer				
	AMOUNT:	$19,189.00	NO BID	NO BID	NO BID	NO BID
	DELIVERY:	45 to 60 Days				
	EPA MPG CITY:	15				
	ENERGY EFF.					
	COST* (EA)	$23,189.00				

AWARDED BY Council ON 2-15-94 CITY

EXHIBIT A

Tuesday - May 17, 1994 - 4:00 p.m.
Asheville Civic Center - Thomas Wolfe Auditorium

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF MAY 15-21, 1994, AS "EMERGENCY MEDICAL SERVICES WEEK"

Mayor Martin proclaimed the week of May 15-21, 1994, as "Emergency Medical Services Week" in the City of Asheville and presented the proclamation to Mr. Robert Griffin with the Asheville Fire Department.

B. PROCLAMATION PROCLAIMING MAY 16-20, 1994, AS "NATIONAL POLICE OFFICERS WEEK" AND MAY 18, 1994, AS "PEACE OFFICERS MEMORIAL DAY"

Mayor Martin proclaimed the week of May 16-20, 1994, as "National Police Officers Week" and May 18, 1994, as "Peace Officers Memorial Day" in the City of Asheville and presented the proclamation to Police Chief Will Annarino.

C. RESOLUTION NO. 94-87 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE DOROTHY BUMPUS

City Manager Farris read the resolution stating that Dorothy Bumpus has been an employee for 5 years and has requested retirement from her position as a Parking Attendant Sr. in the Downtown Development Department. He expressed City Council's appreciation to Dorothy for her service to the City of Asheville and its citizens.

Resolution No. 94-87 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 318

D. RESOLUTION NO. 94-88 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE RICHARD E. GREEN

City Manager Farris read the resolution stating that Richard E. Green has been an employee for 20 years and has requested retirement from his position as a Police Sergeant in the Asheville Police Department. He expressed City Council's appreciation to Richard for his service to the City of Asheville and its citizens.

Resolution No. 94-88 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 319

II. PUBLIC HEARINGS: NONE.

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2103 - AN ORDINANCE ESTABLISHING A POLICY OF NON-DISCRIMINATION WITHIN THE CITY OF ASHEVILLE

Mayor Martin said that the first reading of this ordinance was held on May 3, 1994. He noted that this is not a public hearing. However, everyone wishing to speak will have that opportunity but each one will be limited to three minutes each.

Mayor Martin then read a proposed amended version of the ordinance as follows:

ORDINANCE NO. 2103

ORDINANCE ESTABLISHING A POLICY OF NON-DISCRIMINATION WITHIN THE CITY OF ASHEVILLE

WHEREAS, the City Council of the City of Asheville desires to establish a policy confirming its commitment to equal civil and economic rights for all persons; and

WHEREAS, in stating said policy, it is not the intent of the City Council to establish special rights for any group of individuals, but rather to assure equal rights for all; and

WHEREAS, this ordinance is intended to express the attitude of the City Council toward action, policy and practice that fortifies human dignity and justice; and

WHEREAS, it is the intent of the Council, through this ordinance, to eliminate intolerance, disrespect, harassment, intimidation, bigotry, racism, hatred, and bias in employment practices of the City of Asheville and to encourage the elimination of those negative elements in the entire community in employment, education, accommodation and housing;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT A NEW DIVISION 4 OF ARTICLE IV OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE IS HEREBY ADOPTED AS FOLLOWS:

Section 1. There is hereby established a policy of the City of Asheville to oppose any discrimination in the hiring, promotional and disciplinary practices of the City of Asheville so as to prohibit discrimination against any person for any reason that is not related to bona fide occupational qualifications for the relevant job classification or job performance.

Section 2. The City Manager is hereby directed to establish an administrative policy in order to prohibit such discriminatory practices within the employment practices of the City of Asheville.

Section 3. All citizens of the City, individual and corporate, are hereby requested and urged to use their power and influence to the end that this City shall be one of equal opportunity for all citizens.

Section 4. Nothing in this ordinance shall prohibit the establishment and maintenance of a fair and uniform system of personnel administration which is consistent with the principles contained in the ordinance and with the needs of the City.

Councilwoman Sitnick moved to amend the ordinance as read by Mayor Martin. This motion was seconded by Councilwoman Field and carried on a 4-3 vote, with Councilmen McClure, Swicegood and Watts voting "no".

Mayor Martin stated that since there was a sign-up sheet for persons wishing to speak, he would try to alternate speakers for and against the ordinance. He once again asked that everyone limit their comments to three minutes.

The following persons spoke in favor of the ordinance:

Rev. David Eck
Father William Edwards
Rev. M. Maureen Killoran
Rev. Andrew Gentry
Mr. George Weaver
Ms. Marsha Bates
Rabbi Robert Ratner
Mrs. Marjorie Lockwood
Ms. Carolyn Wallace
Ms. Kim Ellis
Ms. Bernadette Thompson
Mr. Toby Ives
Mr. Gary Kramer
Ms. Janet Conner
Ms. Deb Self
Mr. Andy Reed
Ms. Jan Palich
Mr. Bill Walz
Ms. Minnie E. Jones
Mr. Wally Bowen
Mr. Fred Mitchell
Mr. Larry Damore
Mr. Rusty Siviles
Ms. Joan Marshall
Mr. Gerald Brown
Mr. J. Philip Neal
Mr. H. K. Edgerton
Mr. Bob MacPharson
Mr. David Vance
Ms. Penny White
Mr. Steve Davis
Ms. Katherine Dix
Mr. Michael Faulkner
Ms. Barbara Norton
Mr. Howard Hanger
Mr. Brownie Newman
Mr. Bret Sander
Ms. Johnice Doyle
Mr. John Redmond
Ms. Dorothy Murphree
Ms. Kelly Jo Housman
Mr. Earl Willis
Mr. Carlos Gomez
Mr. Marty Prairie

The following persons spoke in opposition to the ordinance:

Rev. Wendall Runion
Mr. Randy Shepherd
Rev. John Grant
Rev. Carl Kaltreider
Rev. Ralph Sexton Jr.
Rev. Billy Cline
Mr. Steve Cooper
Rev. Rick Edwards
Rev. John Brewster
Mrs. James Stickney
Mrs. Carol Collins
Mr. Larry Linney
Ms. Diana Zinn
Mr. Gary Mattson
Mrs. Robert Hays
Rev. J.B. Higginbotham
Ms. Shirley Miller
Mr. John Cress
Mr. Don Taylor
Mr. Stan Taylor
Mr. Jamie Johnson
Mr. Jack Kouns
Mr. Travis Carson
Mr. Everette E. Parrish
Mr. John E. Barden
Ms. Jill Gallo
Pastor Bob Doom
Mr. David Soesbee
Mr. John Spence

During the comments, Rev. Wendall Runion clarified his prior statement to say that after reading the now amended ordinance, he saw no problem with it.

Councilwoman Sitnick stated that the issue of nondiscrimination was an issue during their campaign. She said that the discriminatory practices listed in the ordinance adopted by Council on first reading on May 3, 1994, excluded some people and this amended ordinance is applicable to anyone.

Councilman Watts said that he felt the ordinance was being rushed through and needed more time to discuss and digest the information. He totally supported nondiscrimination.

Councilman Swicegood felt that there was a policy already in place in the City and felt there was no need for this ordinance, especially since it will broaden the City's liability.

Councilman McClure stressed that no one on City Council will tolerate any discrimination in the City. He felt this ordinance would open the City up for litigation and felt that there were many terms yet to be defined.

Councilwoman Sitnick stated again that this ordinance was amended because a number of people (smokers, pregnant women, etc.) were not included in the categories listed in the ordinance which was adopted on May 3, 1994. She stressed that this ordinance does not endorse or condone anything and it doesn't impose on anyone that they accept anything. Everybody has the right to equal opportunity for employment. She suggested the Mayor leave this issue open for people to submit further comments from the public to the Council in writing. She felt that this amended ordinance is a solution for everyone and stressed that all of Council care for the citizens of Asheville.

Mayor Martin thanked the audience for coming to the meeting and participating.

On a 4-3 vote, Ordinance No. 2103, as amended, passed on its second and final reading, with Councilmen McClure, Swicegood and Watts voting "no".

ORDINANCE BOOK NO. 14 - PAGE 191

IV. NEW BUSINESS:

A. FIRST READING OF AN ORDINANCE REGULATING CONTROL OF STORMWATER

Vice-Mayor Peterson moved to continue this matter until June 7, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

B. ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

At the request of City Manager Farris, Vice-Mayor Peterson moved to continue this matter until June 7, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 94-89 - RESOLUTION APPROVING INTERLOCAL AGREEMENT ON REGIONAL AIR POLLUTION CONTROL PROGRAM

City Manager Farris said that this resolution approves an interlocal agreement on the administration of the Western North Carolina Air Pollution Control Board.

The Regional Air Pollution Control program was established by a joint resolution of the City, Buncombe County and Haywood County in

1970. The interlocal agreement provides that Buncombe County will continue to provide administrative support to the Board, including the handling of personnel and financial matters. The agreement also provides that any personal property owned by the agency will revert to the participating local governments. The agreement prevents acquisition of real property. The agency is fully supported by fees and grants.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-89. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 320

D. RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND EXXON CORPORATION FOR CITY-OWNED PROPERTY ON AIRPORT ROAD

City Attorney Slawter said that the City of Asheville, as owner of property on Airport Road, leased property to Exxon Corporation for a service station, beginning on July 30, 1964. The lease expires on July 31, 1994.

The service station on that site has been closed for a while. There remain, however, some underground storage tanks which need to be investigated to determine whether or not any remediation efforts will be required of Exxon Corporation by governmental environmental agencies.

As any investigation and/or remediation which may be required would extend beyond the expiration date of the lease, Exxon Corporation has proposed an access agreement wherein they would pay to the City of Asheville a monthly payment which is to be negotiated between the parties for continued access to the site in order to perform any investigations and/or remediations required by governmental environmental agencies.

Councilman Swicegood asked if there could not be a time limitation imposed on Exxon cleaning up the site. He also felt that the City should be requesting a higher monthly payment from Exxon.

Due to the concerns expressed, Councilman Swicegood moved to continue this matter until June 7, 1994. This motion was seconded by Councilman McClure and carried unanimously.

E. ORDINANCE NO. 2106 - ORDINANCE AMENDING SECTION 19-60 OF THE CODE OF ORDINANCES

City Manager Farris said that during the recodification of the City Code, a subsection of the ordinance regulating trucks on residential streets was inadvertently omitted. This ordinance provides for an amendment of Section 19-60 of the Code so as to reinsert that subsection. Section 19-60 of the Code prohibits heavy trucks from using designated City streets. The provision to be reinserted provides for use of those streets under certain limited conditions.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2106. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2106 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 199

F. ORDINANCE NO. 2107 - BUDGET AMENDMENT TO ESTABLISH AN APPROPRIATION FOR THE CITY'S SHARE OF THE BRAESIDE/BILTMORE SEWER LINE

City Manager Farris said that this budget amendment will appropriate $185,000 as the City's one-third share to Buncombe County from the Wastewater Capital Fund for the Braeside/Biltmore sewer line. The County will administer the installation of the lines. Any unused funds, including interest earned, if any, will be refunded.

Councilwoman Sitnick stated that she will not approve any change order on this project.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2107. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2107 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 199

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 3, 1994

B. RESOLUTION NO. 94-90 - RESOLUTION OF INTENT TO CLOSE AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET AND SETTING A PUBLIC HEARING FOR JUNE 21, 1994

RESOLUTION BOOK NO. 21 - PAGE 326

C. RESOLUTION NO. 94-91 - RESOLUTION OF INTENT TO CLOSE SKYVIEW PLACE AND SETTING A PUBLIC HEARING ON JUNE 21, 1994

RESOLUTION BOOK NO. 21 - PAGE 327

D. RESOLUTION NO. 94-92 - RESOLUTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

RESOLUTION BOOK NO. 21 - PAGE 328

E. RESOLUTION NO. 94-93 - RESOLUTION AUTHORIZING THE SALE OF THREE VEHICLES TO THE TOWN OF MARSHALL, NORTH CAROLINA

Summary: The Town of Marshall is offering $5,000 to purchase three police patrol vehicles that have been taken out of service pending disposal. This offer is considered to be fair when compared to book values and prior auction proceeds for these type vehicles.

Upon Council's approval, the City will accept the Town of Marshall's offer in the amount of $5,000 for the purchase of one 1985 Ford LTD II, and one 1986 and one 1987 Ford Crown Victorias.

Councilman McClure asked that the City Manager investigate a vehicle take-home program.

RESOLUTION BOOK NO. 21 - PAGE 330

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-94 - RESOLUTION AUTHORIZING CONTRACT WITH MOFFITT INTERNATIONAL

City Manager Farris read the resolution which would authorize the Mayor to execute a contract with Moffitt International Inc. to provide recruitment and selection services for the City Manager position with the following provisions: (1) the maximum fee is $15,000; (2) the City will be responsible for reasonable expenses related to recruitment and selection, with the condition that total expenses may not exceed $3,000 without prior approval of the City; (3) Mr. Kurt Jenne, Assistant Director of the Institute of Government, will serve as an advisor to Moffitt International Inc. for defining City Council's desired qualifications for the position.

Councilwoman Field stated that she was out of town when the Council decided to hire Moffitt International. She said that she would not vote for Moffitt only because she was not convinced they will do the best job for the City of Asheville.

Councilwoman Sitnick stated that she would be in favor of Moffitt because it is the only local executive search company and she supported using local businesses. However, she did have some reservations but hoped they would be able to work with Kurt Jenne and do a good job for Asheville.

City Manager Farris reminded the Council that the next meeting regarding discussion on the City Manager selection will be held on Thursday, May 26, 1994, at 2:00 p.m. in the Council Conference Room, 2nd Floor, City Hall Building.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-94. This motion was seconded by Councilman Swicegood and carried on a 6-1 vote, with Councilwoman Field voting "no".

RESOLUTION BOOK NO. 21 - PAGE 331

C. CITY COUNCIL PRIORITIES

Vice-Mayor Peterson suggested Council start working on the major problems facing Asheville, as outlined on the City Council priorities listing.

D. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 2-6, 1994: Mary Bryant (Water) and Eloise House (Parks).

He said the following claims were received for the week of May 9-13, 1994: Gary Montieth (Fire) and Stacey Ogle (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

E. LAWSUITS

City Manager Farris said that the City has been served with the following lawsuits on May 9, 1994: The Asheville City Board of Education v. Lucile Butler (condemnation) and The Asheville City Board of Education v. Stella Brown (condemnation). He said the City was served on May 5, 1994, with the following lawsuit: MSD v. Max Wilson and wife, Flora Wilson, City of Asheville, et al. (condemnation).

He said these have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:25 p.m.

William D. Holcomb
CITY CLERK

Russell Sprinkle Jr.
MAYOR

Tuesday - May 24, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Mayor Martin read a prayer.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-95 - RESOLUTION OF APPRECIATION TO THE STUDENTS AND FACULTY OF THE CITY AND GUILDS OF LONDON INSTITUTE DECORATION RESTORATION PROGRAM

Mayor Martin expressed the Council's appreciation to Mr. K. Ray Bailey, President of Asheville-Buncombe Technical College, for making the College's decorative restorative program available to the City. He also commended Derick Tickle, instructor for the program, and his students for their outstanding service they have rendered in restoring the Council Chamber in the City Hall building.

Resolution No. 94-95 was adopted by acclamation.

RESOLUTION BOOK NO. 21 - PAGE 332

II. PUBLIC HEARINGS: None

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-96 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH CAROLINA POWER & LIGHT COMPANY AND PUBLIC SERVICE COMPANY OF NORTH CAROLINA INC.

Mayor Martin read the resolution stating that the City of Asheville has for many years imposed upon Carolina Power & Light Company ("CP&L") and Public Service Company of North Carolina Inc. ("Public Service") a franchise tax equal to 1% of the gross revenues of said utilities within the City annually. He said the utilities have previously paid the annual tax under protest. The parties for the City and the utilities have engaged in discussions and negotiations for several years related to the legal interpretation of the statutes authorizing the tax. He said those utilities pay a separate franchise tax to the State of North Carolina based upon their gross revenues, a portion of which is reimbursed to the City. No other City within the State of North Carolina imposes a comparable tax. He said this resolution will authorize the City to execute an agreement, which is attached hereto as Exhibit "A", with CP&L and Public Service which agreement resolves the disputed interpretation of said statutes.

Mr. Larry McDevitt, attorney representing CP&L and Public Service, felt that this agreement was a true compromise and was glad that the issue was resolved.

Council members thanked all those who participated and felt this was a fair agreement and a positive resolution for both sides.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-96. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 333

A. PRESENTATION OF THE 1994-95 ANNUAL OPERATING BUDGET AND SETTING OF PUBLIC HEARING FOR JUNE 7, 1994

City Manager Farris presented the 1994-95 Annual Operating Budget and summarized the following budget message:

May 24, 1994

City Council
City Hall
Asheville, North Carolina

Dear Mayor and Council Members:

I am pleased to submit the recommended FY 1994-95 budget for your consideration. Consistent with City Council's policy, the recommended budget is balanced with a tax rate of $0.57 per $100 valuation. The $0.57 tax rate is a reduction of $0.03 from the current rate, and it reflects a revenue neutral position after accounting for the 1994 tax base revaluation. The total expenditures for the General Fund are $42,538,799. Total recommended expenditures in FY 94-95 are more than 2% below the FY 93-94 appropriation of $43,517,537. Expenditures for the Water Fund, the City's principal enterprise fund, are $16,319,200 that is up $684,633 or 4.4% from the FY 93-94 level. No water rate adjustments are proposed. Total recommended appropriations in the three principal capital funds are $10,258,025.

The following table summarizes the recommended budgets for all funds and compares them with prior years.

FISCAL 1994/95 — *OPERATING SUMMARY*

	ACTUAL 1992/93	APPROVED 1993/94	ESTIMATED 1993/94	PROPOSED 1994/95
GENERAL FUND	40,908,350	43,915,141	43,494,241	42,538,799
ENTERPRISE FUNDS:				
WATER OPERATIONS	15,419,510	15,634,567	15,678,362	16,319,200
ASHEVILLE TRANSIT	2,101,361	2,073,400	2,131,800	1,978,360
PARKING SERVICES	975,398	939,798	904,274	1,037,500
CIVIC CENTER	1,790,889	1,883,922	1,780,405	1,866,896
TOTAL ENTERPRISE FUNDS	20,287,158	20,531,687	20,494,841	21,201,956
LESS: INTERFUND CHARGES	-3,779,277	-4,080,568	-4,258,277	-4,211,546
TOTAL OPERATIONS	57,416,231	60,366,260	59,730,805	59,529,209
NOTE: INTERFUND CHARGES ARE ELIMINATED SO AS NOT TO INFLATE TOTALS				
INTERNAL SERVICE FUNDS				
INFORMATION SERVICES	2,311,775	2,634,033	2,706,886	1,862,845
PRINT SHOP	320,971	302,883	303,455	203,183
CITY ENGINEERING	719,847	833,742	820,219	824,187
FLEET MANAGEMENT	2,653,239	2,682,582	2,486,939	2,401,256
PURCHASING/STORES	570,532	633,889	613,447	554,397
	6,576,364	7,087,129	6,930,946	5,845,868
NOTE: INTERNAL SERVICE FUND CHARGES ARE INCLUDED IN THE OPERATING FUNDS THEREFORE THEIR COSTS ARE INCLUDED ABOVE.				

FORECASTS

The budget development process began in December 1993 with a projected deficit of approximately $3,500,000. This projected deficit resulted from a number of factors, including actual revenue receipts below forecasts and the need to replace "excess" funds appropriated from fund balance to balance the FY 93-94 budget.* However, the major factor contributing to the deficit is that expenditures for operations have been increasing at a faster rate than revenues. As a result of reductions implemented by the departments in the third quarter of FY 93-94, approximately $550,000 was gained for use in reducing the projected deficit. Further measures are recommended to balance the FY 94-95 budget; however, budget projections still show deficits in the coming years. The following table compares the budget projections in FY 93-94 with those for FY 94-95, after reductions.

Comparison of Projected General
Fund Deficits Before and After Reductions

	FY 93-94	FY 94-95
FY 95-96	$2,795,000	$342,000
FY 96-97	2,864,000	351,000
FY 97-98	2,965,000	412,000

A detailed projection of revenues and expenditures for the General Fund may be found in the Annual Operating Budget book.

The projected gaps are manageable. However, the City's budget planning process must continue to give careful attention to the following factors:

- Even though the national economy is experiencing some recovery, limited local revenue growth is expected.
- State-collected local revenues will not increase significantly.
- Growth in the property tax, the single largest revenue source controlled by the City, has remained "flat."
- City's share of local option sales tax will continue to decline slightly.

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* Budget policy requires a minimum unallocated fund balance of 15% of the general operating budget. The appropriations of fund balance in FY 93-94 resulted in an estimated balance below this minimum requirement.

REVENUES

The recommended tax rate of $0.57 per $100 valuation is projected to generate nearly $17.6 million in ad valorem taxes. As a result of revaluation, the City's tax base is $3.2 billion. This is an increase of 10% over the prior year. Compared to the overall increase of 21% in Buncombe County, the City's rate of tax base growth is slow and is a concern for long-term budget planning.

Other major revenue sources are also of concern. State collected local revenues representing 12% of the City's total revenues, have been frozen for several years. Even though these revenues have experienced growth, the increases have been retained by the state. In addition, while the County's receipts from the local option sales taxes have been growing, due to the distribution formula tied to tax levy, the City has seen its share drop. Revenues are estimated at $6.8 million, 16% of total revenues. Estimated receipts are down from the prior year.

BUDGET STRATEGIES

City Council's budget policy and the results of the January 1994 planning workshop have provided the primary guidance in developing the recommended budget. Two elements of Council's budget policy set major financial parameters for FY 94-95, and beyond:

- That the budget be balanced with no effective increase in the tax rate after considering the 1994 tax base revaluation; and

- That the unallocated fund balance be maintained at 15% of the General Fund operating budget.

It has been necessary to achieve moderate reductions in expenditures to comply with these policies. Therefore, the recommended budget may be described as the initial step in sharpening the organization's focus on basic urban services after a period of some budget expansion.

Steps taken to balance the budget include sharp controls on the growth of operating expenditures and a reduction of more than 30 authorized positions. Since nearly 60% of the City's budget involve personnel costs, staffing reductions are required for significant reductions. Even with the reductions, efforts have been taken to maintain basic services at current levels and to insure that impacts of the reductions on customers are minimal.

The process of identifying the reduction targets has been primarily a team effort. Using the group process techniques of the TQM program, the management team, consisting of the city manager and department heads, worked toward three basic objectives to balance the budget:

- Create an organization that can operate within the resources generated by the current tax rate;
- Create a more streamlined organization that continues to improve our responsiveness to customers; and
- Maintain the existing level of core services to the City's customers.

Sub-teams studied the financial impact and feasibility of each strategy, and based on the sub-teams' analyses, the management team set the following reduction targets:

- Improving internal work processes to make them more efficient and to permit cost reductions;
- Consolidating operations to reduce overhead and to permit sharing of staff equipment;
- Simplifying the organization to improve decision-making and to reduce administrative overhead;
- Minor changes in fees; and
- Reducing or eliminating programs that will not impact on core services to customers.

The details of implementing these decisions were handled by department heads.

In addition to the management team's work, an inter-departmental team of employees identified and analyzed a number of cost reduction measures. Many of these ideas are included in the recommended budget.

MANAGEMENT IMPROVEMENT STRATEGIES

The priorities identified by City Council at the January 1994 planning workshop are reflected in the management plan for FY 94-95. The plan also recognizes the need to complete on-going projects and the need to focus the

efforts of staff in order to achieve visible results. Management priorities are summarized as follows:

- Improved management of capital projects.
- Preparation of five-year plans for major capital improvements through a process that focuses on customer priorities.
- Give priority to the installation of infrastructure required by service plans and agreements in recently annexed areas.
- Examine opportunities to contract for services or consolidate services to improve quality and reduce costs.
- Support the community policing concept with coordinated City services.
- Make City services more responsive to customer needs and requirements.

In conjunction with these management improvements, the staff will continue its efforts to implement the Legacy of Excellence (LX) program, Asheville's Total Quality Management process. For FY 94-95, LX will concentrate in the following areas:

- Increasing the number of interdepartmental improvement teams.
- Work process improvements.
- Development of quality indicators for major City services.

ORGANIZATIONAL STRATEGIES

All departments will concentrate their efforts on making the required adjustments to accommodate the reductions in authorized positions. There are, however, a number of organizational changes that should be highlighted.

City Development Department. The Downtown Development Department is being renamed City Development to reflect a broader focus on facilitating development city-wide rather than just in the downtown. The long-term goal is to enhance the tax base and increase the availability of jobs within the City. Many of the programs perfected and lessons learned in the downtown can be applied successfully in other parts of the community. The Downtown Commission has taken a leading step in this new focus by creating a city-wide coalition of development agencies and organizations.

In addition to continuing the core downtown program, the following are possible new initiatives for the department:

- Design plan for the Haywood Road commercial district in west Asheville.
- Assistance in completion of the Head of Montford Redevelopment Plan.
- Improvement plan for the Koon Industrial area in north Asheville.
- Completion of a revitalization plan for "Factory Hill" and the adjacent commercial/industrial area on the French Broad River.

It is expected that the City Development Department will work in teams with the Planning Department, Police Department, Parks and Recreation and Public Works to accomplish these goals.

Some adjustments in the department have been made to accommodate the changes. Parking Services Division and functions will be transferred to the Finance Department. In addition, we are planning for the possible transfer of some festivals to non-city agencies.

Public Information. For budget reduction purposes, the City's public information program is being decentralized. Public Response and the Print Shop are being retained but are being transferred to other departments. These adjustments will require the elimination of some public information activities, such as press releases, the annual report, and "CityWorks." More responsibility for public information and customer service will be placed on the individual departments and divisions.

Risk Management. The Health Services unit is being transferred to Risk Management. Along with this reorganization is a more aggressive focus of the unit on employee and family "wellness." The Risk Management budget is also being transferred to an internal service fund.

Police. The department will continue to implement its community policing process. The west Asheville community resource facility will become fully operational. The department's community policing program will also be the vehicle for a pilot program to restructure the delivery of City services so that they better meet the needs of customers and neighborhoods.

Productivity Improvement. A new unit is created to consult with department and division managers in their efforts to make continual improvements in the efficiency and productivity of the City operations. The new unit will require no new staff; it will draw on existing staff in several

departments on a case-by-case basis. The unit will report to the City Manager's office to facilitate implementation of improvements.

An internal services fund is established to finance the productivity improvement unit. The long-term plan is to use cost savings to finance the unit.

Civic Center. The General Fund subsidy to the Civic Center is budgeted at a realistic $382,000 -- up from the FY 93-94 budget, but consistent with actual requirements. The new director at the Civic Center is being partially compensated on an incentive basis related to the reduction in the subsidy. The goal is to have the Civic Center operations budget break even after four years.

CAPITAL IMPROVEMENTS

The recommended budget contains three funds for major capital improvements: these are General Capital Fund, Street and Sidewalk Fund, and the Wastewater Fund. These funds are summarized in the budget book and fund highlights are presented below.

General Capital Fund. The major new project included in General Capital is $350,000 for funding of improvements to the Stephens Lee Center. Design of a renovation plan for the building is underway. This plan will develop a use program for the building, identify improvements required by the program and develop cost estimates. The total project cost is expected to exceed $750,000. The funding recommended for FY 94-95 will only address Phase I improvements. Additional appropriations will be required to complete the project.

Street and Sidewalk Fund. Funds are included to complete work on all outstanding street/sidewalk contracts. In addition, funds are available for the Wellington Street sidewalk and street and drainage improvements in Sondley Estates. Plans for the Wellington sidewalk require some use of City crews. The Sondley improvements will be completed by contract.

The street and sidewalk improvements scheduled for FY 94-95 will deplete the funds available for significant new projects until FY 97-98 when debt service on existing bonds begins to decline. Without additional funds, street and sidewalk improvements in FY 95-96 and FY 96-97 will be minimal.

Wastewater Fund. The lion's share of expenditures in the Wastewater Fund, with revenues from the local option sales tax, have provided improvements required by annexations. Brevard Road and Haw Creek II are the remaining obligations in the fund.

In addition to the annexation projects, $700,000, is needed for small urban sewer projects around the City. In 1994/95, $100,000 is budgeted to begin to address these needs. There are presently four developed areas within the City that are not provided with sewer. Council will need to amend the existing policy requiring petition and assessment for sewer in developed areas in conjunction with this project.

I want to thank the staff and management team for their cooperation and assistance in preparing the recommended budget. Their work has been professional and tireless under difficult circumstances.

Staff will be available to answer questions throughout the review process.

Respectfully submitted,

William B. Farris

William B. Farris
Interim City Manager

It was the consensus of Council that City Manager Farris and City staff did an outstanding job in balancing this year's budget. They all agreed that it was a difficult task to balance the budget without raising taxes or firing employees.

Councilwoman Field moved to set a public hearing on June 7, 1994, relative to the 1994-95 Annual Operating Budget. This motion was seconded by Councilman McClure and carried unanimously.

City Manager Farris announced that the Council would be holding their budget worksession beginning at 9:00 a.m. on Tuesday, June 7, 1994, in the Council Conference Room, Second Floor of the City Hall building.

B. ORDINANCE NO. 2108 - ORDINANCE AMENDING SECTION 6-4 OF ARTICLE 1 OF CHAPTER 6 OF THE CODE OF ORDINANCES ESTABLISHING NEW FIRE LIMITS FOR THE CITY OF ASHEVILLE'S PRIMARY FIRE DISTRICT AND ESTABLISHING A SECONDARY FIRE DISTRICT

City Manager Farris said that this revision reduces the size of the "fire district" that encompasses the downtown area of Asheville, and adds a small secondary fire district in a south-of-downtown area to cover particular occupancy hazards in that secondary area. It is the result of an extensive study of the fire district boundaries by the Downtown Association, Fire Department staff and Downtown Development staff.

North Carolina law requires that each municipality create a fire district that encompasses its central business district. Within that fire district, construction-material limitations are imposed by the North Carolina State Building Code to prevent a major fire from spreading from building to building. For example, unprotected wood-frame buildings are prohibited in a fire district.

The Downtown Association/staff review of the present fire district boundaries was based on acknowledgment that those boundaries had not been changed or examined since 1965. The goal of this review process was to determine whether the more intense, higher-risk concentrations of downtown structures required fire district boundaries as broad as those in place today. The conclusion of City staff and Downtown Association participants was that those boundaries could be reduced without increasing the risk of a fire of conflagration proportions in downtown Asheville.

Reduction of the fire district boundaries means that owners of land and buildings within the present boundaries but outside the new boundaries would have a broader, more efficient range of construction materials to choose from when building new structures or renovating existing structures. Construction-material limitations would remain for properties within the new fire district boundaries.

Councilwoman Field moved to amend the proposed fire district ordinance by extending the proposed primary district boundary along the centerline of Aston Street between Buncombe Street and Coxe Avenue, thus including the Buncombe County Department of Social Services building. This motion was seconded by Councilman McClure and carried unanimously.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2108, as amended. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2108 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 201

C. ORDINANCE NO. 2109 - ORDINANCE AMENDING APPENDIX C, TRAFFIC SCHEDULES, ARTICLES II, SPEED LIMIT, DIVISION II, SCHOOL ZONES, SECTION 41, 42, 44 AND ADDING SECTION 45 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Manager Farris said that this action will reduce the speed limit on Hillside between North Liberty and Holland Street, in the vicinity of Claxton Elementary School, to 20 miles per hour and reduce the speed limit on Hendersonville Highway, in the vicinity of Carolina Day School, to 35 miles per hour.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2109. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2109 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 203

V. CONSENT:

At the request of Councilwoman Sitnick, approval of the minutes of the regular City Council meeting held on May 17, 1994, was withdrawn

from the consent agenda. She asked that this be withdrawn in order to give the public additional time in which to submit written comments regarding the nondiscrimination ordinance which was adopted on May 17, 1994.

A. RESOLUTION NO. 94-97 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH NC DEPARTMENT OF TRANSPORTATION FOR RE-INSPECTION OF THE BRIDGES ON THE CITY STREET SYSTEM

Summary: This resolution authorizes the City Manager and City Clerk to execute an agreement with N.C. DOT to accomplish the required inspection of the bridges on the City Street System.

In 1983 the Federal Highway Administration developed the Federal Off-System Bridge Replacement Program. Since the establishment of the program, the City has replaced 15 bridges through the program. The program is funded 80% federal funds and 20% City funds and administered by the North Carolina Department of Transportation. To remain eligible for replacement funds and avoid federal penalties, it is required that all public bridges be inspected every two years. The North Carolina Department of Transportation offers cities in North Carolina three options for meeting the bi-annual inspections requirement. One is to do the federal inspection with City forces; two is for the City to hire a consultant to do the inspection; three is for the City to allow the Department of Transportation to do the inspection with either N.C. DOT personnel or engineering consultants.

Since 1983, the City has elected to execute an agreement with N.C. DOT to accomplish the required inspection through their personnel or engineering consultants. This process allows high numbers of bridges to be inspected under one contract or operation, and, therefore, results in minimum inspection cost per bridge. In the last bridge inspection, the cost was only $1,150 per bridge. These costs would have been substantially more if any other method was used and more City staff time would have been required to accomplish the inspections. N.C. DOT representatives anticipate the inspection for bridge to be $1,250 per bridge for the upcoming inspection. The City has 28 bridges which would bring the total cost to $35,000 and the City's share of 20% to $7,000. Funds for the City's share are budgeted in the Capital Projects Fund through the Bridge Replacement Program.

RESOLUTION BOOK NO. 21 - PAGE 334

B. RESOLUTION NO. 94-98 - RESOLUTION ACCEPTING STREETS IN PEBBLE CREEK CONDOMINIUMS AS CITY SYSTEM STREETS

Summary: This resolution requests that the City accept the streets in Pebble Creek Condominiums as City System Streets. The Homeowners' Association has made this request. The streets qualify as City System Streets and are improved to City standards. The parking areas along with streets do not qualify for City maintenance; therefore, the homeowners have retained J. Glenn Haynes to establish a metes and bounds description on a plat distinguishing the parking areas from the streets. The plat prepared by Mr. Haynes adequately separates the streets being accepted from the adjoining parking areas.

Upon being accepted as City System Streets, the street mileage can be added to the Powell Bill mileage and the City will receive approximately $365.00 in Powell Bill funds per year for maintenance and upkeep.

RESOLUTION BOOK NO. 21 - PAGE 335

C. RESOLUTION NO. 94-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE RICEVILLE VOLUNTEER FIRE DEPARTMENT

Summary: This resolution authorizes the City Manager to enter into an agreement extending the annexation fire protection agreement between the City and the Riceville Volunteer Fire Department through June 30, 1994.

In 1993, the City Council authorized an extension of the annexation fire protection agreement between Asheville and the Riceville Volunteer Fire Department through the end of this fiscal year.

Asheville and Riceville representatives met and negotiated the specific elements of this agreement extension late last year. But due to a misunderstanding on the part of the Riceville Fire Department, formal approval of the extension proposal on the part of Riceville's Board of Directors did not take place until late March of 1994. Meanwhile, Riceville has continued to deliver its services under the terms of the extension.

Total contract amount for this extension is $4,473.50.

RESOLUTION BOOK NO. 21 - PAGE 336

D. RESOLUTION NO. 94-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO AN AGREEMENT AND CONTRACT OF LEASE BY AND BETWEEN THE CITY AND THE HOUSING AUTHORITY FOR SPACE AT REID CENTER

Summary: This resolution authorizes the Mayor to execute an amendment to an agreement and contract of lease between the City of Asheville and the Asheville Housing Authority for office space at Reid Center.

The City of Asheville developed the Reid Memorial Recreation Center with funds from several sources, including $150,000 from the Asheville Housing Authority in 1976. Part of the agreement with the Asheville Housing Authority at that time specified that the Housing Authority would use one of the classrooms as a rent collection office for the public housing projects in that immediate area. Recently, funds have been available through a federal grant for the further development of wholesome recreation programs in certain low-income neighborhoods, particularly those operated by a public housing authority. The location of the offices for this special program can be located in the Reid Memorial Recreation Center, thus assuring close cooperative effort in this program between the personnel of the Housing Authority and the Reid Memorial Recreation Center. This office space will be provided within the Reid Recreation Center as long as this cooperative program is in existence. The Housing Authority, through the grant program, will pay all expenses for the renovation of the office space required. The Housing Authority currently pays 10% of the total cost of utilities for the operation of the Reid Center.

RESOLUTION BOOK NO. 21 - PAGE 346

E. MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A CONDITIONAL USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

F. **MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE**

G. **MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE CS COMMERCIAL SERVICES DISTRICT AND THE LI LIGHT INDUSTRIAL DISTRICT**

H. **MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT**

I. **MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, RELATIVE TO A VARIANCE REQUEST FOR PINECROFT ROAD SUBDIVISION**

J. **MOTION SETTING A PUBLIC HEARING FOR JUNE 7, 1994, TO REZONE TWO LOTS AND A PORTION OF ONE ON NEW LEICESTER HIGHWAY AND OLD COUNTY HOME ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT**

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 94-101 - RESOLUTION RATIFYING ACTION OF THE CITY MANAGER REGARDING A GIFT OF STOCK TO THE CITY'S URBAN TRAIL PROGRAM**

City Manager Farris read the resolution and stated that the City is presently developing an Urban Trail along specified historic sites. Eleanor F. Rogers desires to make a financial contribution in support of the development of the Urban Trail. Ms. Rogers has donated 16 shares of common stock of Exxon Corporation to be immediately sold and proceeds to be used in the development of the Urban Trail. This resolution authorizes and ratifies the action of the Interim City Manager to sign on behalf of the City the standard stock power authorizing Nations Bank of North Carolina, NA, to sell the aforementioned shares of stock and to remit the proceeds to the City of Asheville.

Mayor Martin asked that the City Manager prepare a letter to Ms. Rogers thanking her for this contribution.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-101. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 347

B. **COMMENTS BY RALPH BISHOP**

Mr. Ralph Bishop asked City Attorney Slawter several questions as they related to obtaining certified copies of minutes.

C. **CLAIMS**

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 14-20, 1994: Roz Robertson (Police), Carvel Taylor (Parks), Eula Penland (Streets), Barbara Bell (Meter Services), James Green (Streets), Taco Bell (Water), Deborah Johnson (Fire), Millie Owen (Water) and Arleasie Keever (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:17 p.m.

William D. Holcomb, Jr.
CITY CLERK

MAYOR

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EXHIBIT "A"

STATE OF NORTH CAROLINA

A G R E E M E N T

COUNTY OF BUNCOMBE

This AGREEMENT is made and entered into this the 24th day of May, 1994 by and between the CITY OF ASHEVILLE (hereinafter "the City"), CAROLINA POWER & LIGHT COMPANY (hereinafter "CP&L") and PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC. (hereinafter "Public Service") (CP&L and Public Service known collectively as "the Utilities").

WHEREAS, the City is a municipal corporation organized, existing, and governed pursuant to Chapter 160A of the General Statutes of North Carolina; and

WHEREAS, CP&L is a utility company organized, existing, and governed pursuant to Chapter 62 of the General Statutes of North Carolina, and is in the business of providing electrical service to the City; and

WHEREAS, Public Service is a utility company organized, existing, and governed pursuant to Chapter 62 of the General Statutes of North Carolina, and is in the business of providing natural gas service to the City; and

WHEREAS, a dispute exists between the City and the Utilities concerning the interpretation of certain North Carolina General Statutes including, but not limited to, N.C. Gen. Stat. §105-116(e), related to the method of calculating the amount of "license" or "franchise" tax due from the Utilities to the City; and

WHEREAS, the Utilities have given notice to the City of their respective intent to reduce substantially in amount the franchise tax payment which has been heretofore levied by the City and which has heretofore been paid to the City by the Utilities, and further, to seek relief in the Courts reducing in amount the franchise tax payment to the City and ordering refunds for prior franchise tax payments; and

WHEREAS, the City and the Utilities have determined to resolve their differences and to that end have entered into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth below, the Utilities and the City agree as follows:

1. That on or before 30 June 1994:

   (a) CP&L will pay to the City a franchise tax in the amount of SIX HUNDRED FIFTY-NINE THOUSAND FOUR HUNDRED EIGHTEEN AND 16/100 DOLLARS ($659,418.16);

(b) Public Service will pay to the City a franchise tax in the amount of ONE HUNDRED FIFTY-SIX THOUSAND FOUR HUNDRED THIRTY-SEVEN AND 46/100 DOLLARS ($156,437.46); and,

(c) The franchise taxes so paid by CP&L and Public Service in the year 1994 will be in addition to the ad valorem tax paid or payable to the City by each respective utility in January, 1994.

2. That on or before 30 June 1995:

(a) CP&L will pay to the City a franchise tax in the amount of SIX HUNDRED FIFTY-NINE THOUSAND FOUR HUNDRED EIGHTEEN AND 16/100 DOLLARS ($659,418.16);

(b) Public Service will pay to the City a franchise tax in the amount of ONE HUNDRED FIFTY-SIX THOUSAND FOUR HUNDRED THIRTY-SEVEN AND 46/100 DOLLARS ($156,437.46); and,

(c) The franchise taxes so paid by CP&L and Public Service in the year 1995 will be in addition to the ad valorem tax paid or payable to the City by each respective utility in January, 1995.

3. That on or before 30 June 1996, and for the succeeding years 1997, 1998, 1999, and 2000:

(a) CP&L will pay to the City a franchise tax in an amount equal to SIX HUNDRED TWENTY-FOUR THOUSAND FOUR HUNDRED EIGHTEEN AND 16/100 DOLLARS ($624,418.16) less the amount of ad valorem tax paid or payable to the City by CP&L in January of each of said years; and,

(b) Public Service will pay to the City a franchise tax in an amount equal to ONE HUNDRED FORTY-THREE THOUSAND FOUR HUNDRED THIRTY-SEVEN AND 46/100 DOLLARS ($143,437.46) less the amount of ad valorem tax paid or payable to the City by Public Service in January of each of said years.

4. That on or before 30 June 2001 and for every year thereafter:

(a) CP&L will pay to the City a franchise tax in an amount equal to SIX HUNDRED FIFTY-NINE THOUSAND FOUR HUNDRED EIGHTEEN AND 16/100 DOLLARS ($659,418.16) less the amount of ad valorem tax paid or payable to the City by CP&L in January of each year; provided that when the ad valorem tax paid or payable to the City by CP&L equals or exceeds the amount of SIX HUNDRED FIFTY-NINE THOUSAND

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FOUR HUNDRED EIGHTEEN AND 16/100 DOLLARS ($659,418.16), then CP&L's franchise tax liability to the City shall be fixed at, and shall not exceed, a maximum amount of TWELVE THOUSAND ONE HUNDRED FIFTY-THREE AND 22/100 DOLLARS ($12,153.22) annually;

(b) Public Service will pay to the City a franchise tax in an amount equal to ONE HUNDRED FIFTY-SIX THOUSAND FOUR HUNDRED THIRTY-SEVEN AND 46/100 DOLLARS ($156,437.46) less the amount of ad valorem tax paid or payable to the City by Public Service in January of each year; provided that when the ad valorem tax paid or payable to the City by Public Service equals or exceeds the amount of ONE HUNDRED FIFTY-SIX THOUSAND FOUR HUNDRED THIRTY-SEVEN AND 46/100 DOLLARS ($156,437.46), then Public Service's franchise tax liability to the City shall be fixed at, and shall not exceed, a maximum amount of ONE THOUSAND SEVEN HUNDRED NINETY-SEVEN AND NO/100 DOLLARS ($1,797.00) annually.

5. It is the intent and within the contemplation of the parties that the substance of this Agreement will be enacted into legislation by the North Carolina General Assembly and to this end that the City and the Utilities will cooperate and use their best efforts toward accomplishing the adoption of legislation by 30 June 1994. However, should the legislation as contemplated not be adopted by the North Carolina General Assembly during the 1994 Session, and until such legislation is adopted, the following will pertain to this Agreement:

(a) If CP&L or the City materially breach this Agreement with respect to those terms related to the rights and obligations of CP&L and the City, then the aggrieved party shall be entitled to recover of the breaching party the sum of THREE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($3,500,000.00) as liquidated damages;

(b) If Public Service or the City materially breach this Agreement with respect to those terms related to the rights and obligations of Public Service and the City, then the aggrieved party shall be entitled to recover of the breaching party the sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($500,000.00) as liquidated damages.

6. This Agreement is entered into solely for the purpose of a full and final settlement of the disputed matters relating to the amount of franchise tax due from the Utilities to the City as hereinabove described and does not represent a compromise either of a tax payable by the Utilities or a tax owed to the City.

7. This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors, and assigns of the Utilities and the City.

8. In the event that any portion of this Agreement shall be determined to be unconstitutional or otherwise unenforceable, the remaining portions of this Agreement shall continue in full force.

IN WITNESS WHEREOF the undersigned have executed this AGREEMENT, pursuant to authority duly given, the day and year first above written.

CITY OF ASHEVILLE

ATTEST: (CORPORATE SEAL)

William E. Moffett, Jr.
CITY CLERK

BY: _____
MAYOR

CAROLINA POWER & LIGHT COMPANY

ATTEST: (CORPORATE SEAL)

Adrian N. Wilson
ASSISTANT SECRETARY

BY: Charles A. Barkhouse Jr.
EXECUTIVE VICE PRESIDENT

PUBLIC SERVICE COMPANY OF
OF NORTH CAROLINA, INC.

ATTEST: (CORPORATE SEAL)

Asst
SECRETARY

BY: Charles E. Zeigler, Jr.
PRESIDENT

Tuesday - June 7, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF SANDRA WELLS, TEACHER AT HALL FLETCHER ELEMENTARY SCHOOL, AS BEING NAMED NORTH CAROLINA TEACHER OF THE YEAR

Mayor Martin recognized Ms. Sandra Wells as being named North Carolina Teacher of the Year. The Mayor and Council thanked her for her dedicated service to the children of our community.

B. RESOLUTION NO. 94-102 - RESOLUTION RECOGNIZING CITY OF ASHEVILLE "LEGACY OF EXCELLENCE" TEAM MEMBERS FOR THEIR CONTRIBUTION TO THE "BUILDING COMMUNITY VALUE" COMMUNITY STRATEGIC PLANNING PROCESS

City Manager Farris read the resolution which commended all participants in the City of Asheville's "Legacy of Excellence" quality improvement process ("LX") . He expressed Council's support of the LX and urged continued application of LX problem-identification and problem-solving techniques in support of "Building Community Values."

Councilwoman Field moved for the adoption of Resolution No. 94-102. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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C. PROCLAMATION PROCLAIMING THE WEEK OF JUNE 5-11, 1994, AS "NATIONAL GARDEN WEEK"

Mayor Martin proclaimed the week of June 5-11, 1994, as "National Garden Week" in the City of Asheville.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE THE 1994/95 ANNUAL OPERATING BUDGET

Mayor Martin opened the public hearing at 4:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said that this balanced budget, in the amount of $59,529,209, includes an ad valorem tax rate of $.57 per $100 assessed valuation and continues basic City services at current levels.

Mr. Ralph Bishop made statements concerning his inability to obtain verbatim minutes of a community meeting held at the East Asheville Community Center. Deputy City Clerk Maggie Burleson responded that the tape of that meeting was inaudible and Mr. Bishop was told that if he would repeat the same questions to City Attorney Slawter at the May 24 meeting, Mr. Slawter would try to respond as he did at the community meeting. She then transcribed verbatim minutes of that portion of the meeting for Mr. Bishop and furnished them to him free of charge.

In response to other comments made by Mr. Bishop, Councilwoman Sitnick said that Mr. Bishop has never been denied an opportunity to address the Council and personally resented his analogy that the Council meeting "is like Hitler's Nazi Germany." She felt it was inappropriate, irrelevant and offensive to the City Council.

Mr. Bob Selby, representing the Council of Independent Business Owners, presented Council with a memo which he summarized several areas of cost containment as follows: (1) Sale of the renovated facility housing the Downtown Development Department be sold generating significant revenue, while consolidation of offices in new public works facility could decrease the current operating budget; (2) Concern that City's Planning Department budget per staff position is much larger than in larger governments; (3) Reconsideration of the process of privatization of sanitation services and define from the outset what criteria are to be used in evaluating prospective service providers; (4) Encourage further discussions with Buncombe County to consider other service partnerships which might include central purchasing, inspections and management information services; and (5) Encourage continued efficiency and improvement in the Inspections Division which will make it easier for developers to build in the City.

Mayor Martin closed the public hearing at 4:34 p.m.

Mayor Martin said that Council would consider the comments made prior to adoption of the budget on June 21, 1994.

B. PUBLIC HEARING TO DIRECT THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2110 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 11 IVY STREET, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Safety, said that the dwelling was inspected on April 6, 1992, which disclosed that the structure's walls, floors and roof are structurally unsound. He said that the structure is more than 50% gutted by fire, has major structural damage, no sanitary facilities, no electricity, is abandoned, is occupied by vagrants, accessible to children, and is a hazard to the general public.

Mayor Martin closed the public hearing at 4:36 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2110. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2110 passed on its first and final reading.

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C. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

ORDINANCE NO. 2111 - AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO INCLUDE LABORATORIES AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 4:38 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that on May 11, 1994, the Asheville Planning and Zoning Commission reviewed and recommended approval of an amendment to the zoning ordinance which addresses laboratories in the Office Institutional District. The proposed ordinance amendment would allow laboratories as conditional uses in the Office Institutional District. Office Institutional Districts are often located adjacent to residential areas, serving as a transition between residential districts and commercial areas. In order to protect neighboring residential uses from potential adverse impacts of the laboratories, the Planning and Zoning Commission has identified certain conditions which laboratories must meet in order to locate in Office Institutional Districts. These conditions address traffic, waste storage and disposal, odors, lighting, and emission of air borne pollutants. Following review and discussion of the proposed amendment, the Planning and Zoning Commission voted unanimously to recommend approval of the ordinance amendment.

Mr. Green responded to several questions raised by Councilman McClure as they related to the staff recommending labs as a permitted use in the OI District and Planning & Zoning Commission's recommendation to Council that labs be a conditional use in the OI District.

Councilwoman Sitnick stressed that the conditions outlined for labs as a conditional use in the OI District are only guidelines, safety factors and extra precautions in order to protect the neighboring residential areas and could not find any reason to object those precautions.

Councilman McClure felt that the precautions outlined are already covered in different laws that the City has, such as the noise ordinance, the prohibition of trucks on residential streets, etc.

Ms. Barber Melton, Chairman of the Planning & Zoning Commission, explained the Commission's reasoning in it's recommendation to Council and stressed that no one particular lab was mentioned in its deliberations.

Mr. Johnny Lloyd questioned Planning & Zoning Commission's authority to make recommendations to Council.

Mr. Ben Slosman briefed the Council on how this amendment first started and felt that labs should be a permitted use in the OI District, not a conditional use.

Planning Director Julia Cogburn concurred with Mr. Slosman's recollection of events leading up to this public hearing. She did, however, correct the statement that the ordinance could be amended administratively, which it could not be. The options presented to him were to either have the property rezoned to a zoning classification that permits labs or to petition for a wording amendment to permit laboratories to be a permitted use within the OI District.

Councilman Swicegood felt that there are federal and state agencies that regulate laboratories already and handle the safety factors and the City should leave the enforcement up to them.

Mr. Bob Selby spoke in favor of the laboratories being a permitted use in the OI District.

Mr. Carl Ricker spoke in support of the labs being a permitted use in the OI District. He said that there has been a lab at the old Highland Hospital property since 1904 and had no problems. He felt that if Council is going to put these conditional uses in, they should put them in all the zoning districts and not just in the OI districts.

Mr. H. K. Edgerton felt that the residential neighborhoods should know what the labs will be testing, not only now, but in years to come.

Mr. Jerry Sternberg also pointed out that all the conditions outlined were covered elsewhere, either by City ordinance, State or Federal regulations. He urged Council to make labs a permitted use in the OI District.

At the request of Councilwoman Sitnick, Mr. Ricker explained why he and others felt this was a political issue.

Mr. Joe Chandler spoke about his first-hand knowledge, when he worked in labs in other cities, of how certain chemicals leaked out of the lab buildings.

Mr. Clarence Benton felt that if conditions were placed on one district, they should be placed in all the districts.

Mr. Ralph Bishop commented that Mayor Martin allowed other people at this public hearing to speak longer than the 3 minutes permitted him.

Mayor Martin closed the public hearing at 5:45 p.m.

Councilman Swicegood moved to adopt a substitute ordinance to include laboratories as a permitted use in the OI District. This motion was seconded by Councilman McClure.

Mayor Martin said that members of Council have previously received a copy of the substitute ordinance and it would not be read.

On a roll call vote of 5-2, Ordinance No. 2111 passed on its first and final reading, with Councilwomen Field and Sitnick voting "no".

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D. PUBLIC HEARING TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE

ORDINANCE NO. 2112 - AN ORDINANCE TO AMEND THE SUBDIVISION REGULATIONS OF THE ZONING ORDINANCE

Mayor Martin opened the public hearing at 5:46 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that this amendment to the subdivision regulations would streamline the review procedure for subdivisions involving no new public or private street construction, no right-of-way dedication, and no utility extension nor utility easement dedication.

Currently all subdivisions must have a preliminary plat approved by the Planning & Zoning Commission and a final plat approved by the City Council. The proposed amendment would eliminate review of those subdivisions described above by the Commission and the Council. The proposal would require those subdivisions to have a sketch plan and a final plat approved by the Planning Department.

Ms. Angel Banks Craven, Right-of-Way Coordinator for MSD, stated that there is no provision in the amendment to safeguard building over existing utilities that may exist within the planned subdivisions. She asked Council to add some type of provisions in this ordinance that in addition to any responsibility that the developer may have to the City within this ordinance, that the developer still be held responsible to work with MSD in order to avoid building over any existing sewer utility lines that might be within the planned subdivision. She stated a problem of there being many sewer lines that have no recorded rights-of-way.

Mr. Green said that at the staff level they would review the plat to make sure that the building area is not compromised by a sewer line or an existing right-of-way. It will be a check at the staff/administrative level.

Upon inquiry of Vice-Mayor Peterson, Ms. Craven said that the mapping program at MSD is approximately 75% complete.

Upon inquiry of Councilwoman Field about how the City can help MSD with this problem, Planning Director Julia Cogburn said that this ordinance has nothing to do with the construction of the building. However, the unified development ordinance might be a place where this problem can be addressed. She said that they would be happy to work with MSD on this.

Mayor Martin closed the public hearing at 6:01 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2112. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2112 passed on its first and final reading.

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E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE COMMERCIAL SERVICES DISTRICT AND THE LIGHT INDUSTRIAL DISTRICT

ORDINANCE NO. 2113 - AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO INCLUDE CHURCHES AS A PERMITTED USE IN THE COMMERCIAL SERVICES DISTRICT AND THE LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 6:02 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson , Urban Planner, said that this amendment to the zoning ordinance would allow churches and related facilities within the CS Commercial Service District. This amendment would also have the effect of allowing churches within the LI Light Industrial District as all uses allowed in CS Commercial Service District are also allowed in LI Light Industrial District.

Mayor Martin closed the public hearing at 6:03 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2113. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2113 passed on its first and final reading.

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F. PUBLIC HEARING TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

ORDINANCE NO. 2114 - AN ORDINANCE TO REZONE 30 PROPERTIES ON BRICKYARD ROAD FROM R-2 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 6:04 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that in response to community concerns raised during the March 1, 1994, rezoning of property located on Brickyard Road, the Planning and Zoning Commission has initiated a rezoning for approximately 40 acres composed of 30 tax parcels located in the Brickyard Road area from R-2 (low density residential) to R-5 (residential).

The City planning staff recommends that this rezoning be approved for the following reasons:

- All property surrounding the subject area is currently zoned R-5 and is developed consistent with regulations of the R-5 district
- R-5 provides the potential for creation of affordable housing as manufactured homes and manufactured home parks are permitted uses
- A precedent was established for R-5 zoning in this area when 15 acres adjacent to the subject area was rezoned from R-2 to R-5 on March 1, 1994
- The proposed rezoning would eliminate a number of nonconforming situations as several of the subject properties contain manufactured homes
- The proposed rezoning has support from the affected property owners

Mayor Martin closed the public hearing at 6:08 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2114. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2114 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 215

G. PUBLIC HEARING ON VARIANCE REQUEST FOR PINECROFT ROAD SUBDIVISION

Mayor Martin opened the public hearing at 6:09 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said the proposed Pinecroft Road Subdivision is located off of Pinecroft Road in North Asheville. The proposal is to subdivide an approximately 10 acre site into two lots. The site is zoned R-1 and all adjacent property is zoned R-1 or is out of the city's zoning jurisdiction. The site is steeply sloping.

The petitioner is requesting a variance from Section 17-99 of the city's subdivision regulations (this Section stipulates that all lots abut a public street). This variance would allow the subdivision to be accessed from an existing private drive off of Pinecroft Road.

At their May 11, 1994, meeting, the Planning and Zoning Commission voted 5-1 to approve the preliminary plat and recommend approval of the variance request.

Mr. Frank A. Cole urged Council to grant his variance request.

Mayor Martin closed the public hearing at 6:13 p.m.

Councilman Watts moved to allow a modification to the subdivision regulation which requires that every lot in a subdivision abut a public street in Pinecroft Road Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

H. PUBLIC HEARING TO REZONE TWO LOTS AND A PORTION OF ONE ON NEW LEICESTER HIGHWAY AND OLD COUNTY HOME ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

ORDINANCE NO. 2115 - AN ORDINANCE TO REZONE TWO LOTS AND A PORTION OF ONE ON NEW LEICESTER HIGHWAY AND OLD COUNTY HOME ROAD FROM CS COMMERCIAL SERVICE DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

Mayor Martin opened the public hearing at 6:14 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that this is in response to the rezoning petitioned by Lawrence Traber, representing Harvey Spiegel, property owner, requesting a change from Commercial Service to Light Industrial for three tracts at property on Leicester Highway.

The City planning staff recommends that two lots, PIN Nos. 9628-08-89-2473 and 9628-08-89-5069, be rezoned as petitioned for the following reasons:

- In 1990 the City established industrial zoning in this area by rezoning an adjacent 4.7 acre property in the same ownership as the subject property, making possible the expansion of a nonconforming industrial plant

- Lot #5069 contains a nonconforming industrial building in the same ownership as the subject property

- Lot #2473 is immediately adjacent to the existing industrial plant and bordered on three sides by Light Industrial zoning

The City planning staff recommends that the third lot requested to be rezoned, PIN No. 9628-08-89-4533, not be rezoned for the following reasons:

- This lot fronts directly on Leicester Highway and is separated topographically from the existing industrial

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development and Light Industrial zoning along Old County Home Road. This topographic separation makes an excellent zone boundary between Commercial Service and Light Industrial. Direct vehicular access between this lot and the other lots zoned and requested for Light Industrial zoning is not feasible

- All properties fronting both sides of Leicester Highway in this area are zoned and developed with Commercial Services uses

- The 2010 Plan does not indicate industrial development along this stretch of Leicester Highway

- The requested rezoning of this lot would result in a single stretch of less than 100 feet of industrial zoning in an otherwise continuous Commercial Service District

The Planning and Zoning Commission concurs with the City staff in recommending the rezoning of Lots #2473 and #5069 as requested. For Lot #4533, however, the Commission recommends that the part of the lot fronting on, and at grade with, Leicester Highway, remain Commercial Service, while the balance of the lot be rezoned to Light Industrial as petitioned.

Mayor Martin closed the public hearing at 6:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2115. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2115 passed on its first and final reading.

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III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2116 - ORDINANCE REGULATING STORMWATER RUN-OFF FROM CERTAIN NEW DEVELOPMENTS WITHIN THE CITY OF ASHEVILLE

RESOLUTION NO. 94-103 - RESOLUTION ADOPTING A STORMWATER STANDARD SPECIFICATIONS MANUAL FOR THE CITY OF ASHEVILLE

City Attorney Slawter passed out an amended ordinance while outlining technical changes made.

Councilwoman Sitnick said that the Mayor appointed a stormwater committee, consisting of Councilman McClure, Councilwoman Field, Ron Butler, Barber Melton and herself, which has met for several months, along with staff to receive input and develop an ordinance on stormwater. In addition, City Council has discussed the ordinance at two separate worksessions. This ordinance establishes a program for the installation of facilities to manage stormwater runoff from certain new development in order to reduce the hazards from runoff. A related document is a "Stormwater Standards Specifications" manual that provides developers and design professionals the requirements for guidelines for designing and building stormwater management facilities.

The City's existing soil erosion and sedimentation ordinance is for the purpose of regulating land-disturbing construction activity to prevent erosion and sedimentation. This stormwater ordinance begins where the soil erosion ordinance ends and permanently regulates the quantity of stormwater leaving a development.

The proposed ordinance has been reviewed by various organizations and individuals involved in the land development process and staff has reviewed numerous existing similar ordinances.

The ordinance applies to new development that creates impervious surfaces of greater than 50% of the site area or that encompasses more than five acres. Stormwater management facilities will be required to insure that the runoff from a storm will be as good or better than before the site was developed. The facilities must be designed to accommodate the runoff from a storm of ten year frequency of six hours duration. The ordinance also provides for the ongoing inspection and maintenance of stormwater facilities.

It is the policy of the City to encourage developers to use natural vegetation and creative landscaping stormwater control measures and this ordinance states such. Developers and their authorized registered professionals will be given information on the use of pervious material and natural measures to control stormwater runoff to the extent possible.

To offset the City's costs for administration of the ordinance and the required annual inspections that insure adequate maintenance of detention and retention basins and facilities, fees are currently recommended at $400 for the Stormwater Discharge Permit and $100 per year for annual inspection.

The "Stormwater Standard Specifications" provides the requirements for design and construction of stormwater management facilities. The manual includes procedures for calculating the volume of runoff, design requirements for stormwater detention and retention basins to insure that they are adequate and safe, standards for design and installation of storm sewers, and design of open channels. Once this manual is adopted by Council, the City Engineer will be authorized to make minor changes to keep the manual up-to-date.

Both the ordinance and the design manual have been designed to complement existing development ordinances to the extent possible and not to require unreasonable review delays for property owners and subdividers. The Engineering Department is committed to completing the review of the stormwater plans as quickly as possible, but no later than 30 days after submitted as is stated in the ordinance.

Vice-Mayor Peterson and Councilwoman Sitnick thanked the Stormwater Committee and staff for their work and time spent on making this a fair and balanced ordinance.

Councilwoman Sitnick thanked the residents of Crowfields for working with the City on this ordinance, even though they knew that this ordinance could not help them with their immediate problems. However, the ordinance will help them in future developments in their area.

Mayor Martin stated that members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2116. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2116 passed on its first and final reading.

Councilwoman Sitnick asked the Council to consider the continuation of the committee members as the Stormwater Utility Committee. Also, she asked that a follow-up be conducted on the City's requesting assistance and a study by the Corp. of Engineers in the Crowfields area.

Councilman McClure felt, and it was the consensus of Council, that these items be discussed in a worksession.

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Mayor Martin stated that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-103. This motion was seconded by Councilwoman Field and carried unanimously.

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B. ORDINANCE NO. 2117 - ORDINANCE AMENDING ARTICLE II (ABANDONED VEHICLES) OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Manager Farris said that this revision is in response to major changes in the state laws that authorize cities like Asheville to control junked, abandoned or nuisance vehicles. Our present ordinance does not conform to these new state standards.

Removal of junked, abandoned and/or nuisance vehicles becomes the responsibility of the Police, Fire and Planning Departments. The Police Department is responsible for removal of abandoned vehicles on public and City property, and the Fire Department and Planning Department are responsible for enforcement on private property.

This ordinance also provides the Council with the authority to contract with a single towing service for vehicle removal and disposal at such future time as the Council deems appropriate.

He said all appeals will go to the Buncombe County Magistrate's Office.

He noted that all of Councilwoman Sitnick's concerns regarding cost recovery are not addressed in the ordinance but that the expenses will primarily rely upon the City, as it does now.

Upon inquiry of Councilwoman Sitnick about a recent Supreme Court case, City Attorney Slawter said that the case could have an impact on the recoverability of fees, but he believed the court decision was primarily zoning regulated fees.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2117. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2117 passed on its first and final reading.

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IV. NEW BUSINESS:

A. ANNUAL REPORT FROM THE MINORITY BUSINESS COMMISSION

Mr. Clarence Benton, representative of the Minority Business Commission, presented the Annual Report and briefed the Council on their activities during the year.

He said the Commission's recommendations were to amend the City of Asheville's Minority Business Plan utilizing the recommendations set forth by Research and Evaluation Associates, Inc., of Chapel Hill, N.C., in the City of Asheville Minority Business Disparity Study with the modifications by the Minority Business Commission which were presented during Pre-Council by Chairman Nason. In addition to the above mentioned recommendations, the Commission presented the following recommendations:

That the City of Asheville and Buncombe County form the Asheville-Buncombe Minority Business Commission whose purpose is to oversee the Asheville-Buncombe Minority Business Program;

That the City and County work cooperatively to establish a joint Office of Minority Affairs for the purpose of housing the Asheville-Buncombe Minority Business Program and related minority and economic development activities; and

That the aforementioned office be adequately staffed and provided the resources from both the City and County necessary to effectively perform its functions.

Mr. Benton urged Council to adopt the Minority Business Disparity Study prior to adoption of the budget because they are asking for additional staff.

At the request of Mayor Martin, City Manager Farris said that he would work with the City Attorney's Office in bringing the Council appropriate language relative to adopting the Minority Business Disparity Study.

Mr. Daniel Breen, representative of the Asheville African American News Shopper Guide, asked Council several questions regarding the Study.

In response to Vice-Mayor Peterson, Mr. H. K. Edgerton passed out information relative to bonding and lending and spoke in support of the recommendations made by the Commission.

B. RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND EXXON CORPORATION FOR CITY-OWNED PROPERTY ON AIRPORT ROAD

At the request of the City Attorney, Vice-Mayor Peterson moved to delay this matter until June 21, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION NO. 94-104 - RESOLUTION TO ADOPT EMPOWERMENT ZONE STRATEGIC PLAN AND AUTHORIZE SUBMISSION OF APPLICATION

City Manager Farris said that during the past three months, the City has been developing a strategic plan, including widespread community involvement. The strategic plan is a required element of HUD's Empowerment Zone/Enterprise community application. If designated an Empowerment Zone, the City will be eligible to receive $100,000,000 through Empowerment Zone/Enterprise Community Social Service Block Grant and certain tax credit and tax exempt financing. If designated an Enterprise Community, the City will be eligible to receive approximately $3,000,000 in Empowerment Zone/Enterprise Community Social Service Block Grant and certain Tax Exempt Facility Bonds.

Planning Director Julia Cogburn reviewed the draft plan which included the following listing of high priorities:

Affordable Housing

Tenant/Homeownership education for public housing residents
Reduced Zoning Barriers
CRA Compliance Initiative
Comprehensive Code Enforcement Strategy
Clingman Avenue/Haywood Road Neighborhood Preservation
City Property made available for Affordable Housing ` development
Feasibility Study/Pilot for Affordable Housing development

Community Wellness

Neighbors Helping Neighbors
Parents as Teachers
Neighborhood Clean-up Program
Learning Institute for Empowerment
Parents to Parents/Motherlove
Street Light Improvement
EvenStart

Economic Opportunity

Job Skills Training Related to Construction Industry
Community-to-Schools Connections/Mentoring
Small Business Grant Program
Grove Arcade Public Market
Riverlink's AMERICORPS
South Pack Square Redevelopment

Community-Based Partnerships

Local Skills Training Related to Construction Industry
Expansion of Community Center Function
Community-Based Van System
Service Organization Computer Network

Mr. Ralph Bishop questioned the use of any of this money being used for the Grove Arcade Building.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-104. This motion was seconded by Councilman Watts and carried unanimously.

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D. RESOLUTION NO. 94-105 - RESOLUTION APPOINTING MAGDALEN BURLESON AS DEPUTY CITY CLERK

City Attorney Slawter said that this resolution will appoint Maggie Burleson as Deputy City Clerk for the City of Asheville, who shall have full authority to exercise and perform any of the powers and duties of the City Clerk that may be specified by the Council.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-105. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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V. CONSENT:

At the request of Councilwoman Sitnick, approval of the minutes of the regular City Council meeting held on May 17, 1994, was withdrawn from the consent agenda. She asked that this be withdrawn in order to give the public additional time in which to submit written comments regarding the nondiscrimination ordinance which was adopted on May 17, 1994.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON MAY 24, 1994

B. RESOLUTION NO. 94-108 - RESOLUTION APPOINTING JOHNNY LLOYD AS A MEMBER TO THE CIVIL SERVICE BOARD

Summary: Andy Brantley has resigned as a member of the Civil Service Board, leaving an unexpired term until May 21, 1995. This resolution will appoint Johnny Lloyd to fill the unexpired term of Mr. Brantley, term to expire May 21, 1995, or until his successor has been duly appointed and qualified.

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C. RESOLUTION NO. 94-109 - RESOLUTION AMENDING THE MEMBERSHIP OF THE CITIZENS/POLICE ADVISORY COMMITTEE AND APPOINTING MEMBERS THERETO

Summary: The terms of A. Robert York, Marvin Nockow, Shannon Adell and Andrea Purcell expired on May 1, 1994. This resolution will appoint Henry Southworth, Dick Shahan, Tommy Sellers, Lonnie Blair and Janice Van Dine to the Citizens/Police Advisory Committee. Their terms will expire on May 1, 1996, or until their successor have been duly appointed and qualified.

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D. RESOLUTION NO. 94-110 - RESOLUTION APPOINTING JOHN INGERSOLL TO THE BUNCOMBE COUNTY DRUG COMMISSION

Summary: The term of Arthur Edington will expire on July 1, 1994. This resolution will appoint John Ingersoll as a member to the Buncombe County Drug Commission to serve a three year term, term to expire July 1, 1997, or until his successor has been duly appointed and qualified.

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E. RESOLUTION NO. 94-111 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 48, 144, 145 AND 198 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

Summary: This resolution will authorize the Housing Authority to accept a bid to purchase Disposal Parcels 48, 144, 145 and 198 (4.4 acres total) from Douglas Company in the amount of $89,400.

The proposed development will consist of 44 units of project based Section 8 assisted housing for the elderly and handicapped.

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F. RESOLUTION NO. 94-112 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 141, 149 AND 150 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM

Summary: This resolution will authorize the Housing Authority to accept a bid to purchase Disposal Parcels 141, 149 and 150 (2.4 acres total) from St. John Church of God Holiness in the amount of $43,600.

The proposed development will consist of a church building and parking lot.

RESOLUTION BOOK NO. 21 - PAGE 359

G. RESOLUTION NO. 94-113 - RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE A PETITION TO ANNEX A NONCONTIGUOUS AREA ON GLEN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY

Summary: On May 23, 1994, the City received a signed petition from Randy and Cathy Warn requesting the annexation of their property on Glen Bridge Road. Mr. and Mrs. Warn are building a restaurant on the site (Cafe Glen Bridge) and wish to obtain an ABC license. They are requesting annexation into the City in order to legally request that license.

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H. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, RELATIVE TO VARIANCES REQUESTED BY MOUNTAIN CHATEAU SUBDIVISION

I. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, TO REZONE 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT

J. MOTION SETTING A PUBLIC HEARING FOR JUNE 21, 1994, TO ZONE SECTION IV OF BRAESIDE TO R-1 RESIDENTIAL DISTRICT

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said thc City Council adopted a procedure whereby the Planning Director reports final recommendations of

the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on June 1, 1994:

SWANNANOA SHOPPING CENTER

Mr. Green said that the proposed Swannanoa Shopping Center is to be located at the intersection of Wood Avenue and Swannanoa River Road. The proposed shopping center will include a 150,000 square foot retail building, a 40,000 square foot retail building, a 68 room hotel/motel, a ten screen movie theater, and two out parcels on a 39 acre panel. Neighboring property owners expressed concern regarding the impact of the project on traffic and water and sewer service in the area.

On June 1, 1994, the Planning & Zoning Commission reviewed the project and recommended approval with five conditions:

1. Receipt of letters approving availability of utilities and adequate fire protection;

2. Provide sidewalks for pedestrian circulation within the development (sidewalks, walking trails, or others subject to staff review);

3. Provide a traffic deceleration lane on Wood Avenue at entrance to development following approval by NC DOT and City Street Division;

4. Take appropriate measures to reduce stormwater pollution; and

5. Incorporate recommendations of the traffic impact analysis only as they apply to this development.

Ms. Elizabeth Graham, member of the Planning & Zoning Commission, explained that there were several compromises that made the Commission's unanimous vote.

Mr. Green answered Council's questions as they related to the traffic impact analysis. He said the zoning ordinance did not require the study, however, the Traffic Engineer felt the study was needed. Councilman McClure then asked the City Manager to look into the requirement of the study.

Councilwomen Field and Sitnick both stated that they had received numerous calls from residents in this area concerning this group development. Councilwoman Sitnick felt that most of her calls were from residents who just really wanted to know some specifics of the project. She liked the idea of developers meeting with the residents at the beginning of the projects in order to work out any problems and keep the neighbors informed of what type project will be built in their neighborhood.

Although Councilwoman Sitnick did not want to delay the project, she felt the residents had a right to a public hearing to find out the specifics on this project and thus moved to set a public hearing. This motion was seconded by Councilwoman Field.

Mr. Clay Mooney said that the developer is trying to do a good project and has already met with the Bikeways Task Force. He said that he would be more than happy to meet with the residents of the area and/or the homeowners association and inform them of the project and try to address any concerns they might have.

Councilwoman Sitnick then withdrew her motion to set a public hearing. Councilwoman Field withdrew her second.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

PARK TERRACE EAST

Mr. Green said that the proposed Park Terrace East group development is to be located on Piney Mountain Road off Chunns Cove Road. The proposed office park will contain 12 office buildings, totaling 68,000 square feet, on the 16 acre site. A representative of the Mountainbrook Homeowner's Association spoke in favor of the project.

On June 1, 1994, the Planning & Zoning Commission reviewed the project and recommended approval with three conditions:

1. Submittal of detailed landscaping plan;

2. Receipt of driveway permit; and

3. Receipt of letter acknowledging adequate fire protection.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RESOLUTION NO. 94-112 - RESOLUTION AUTHORIZING THE ASSIGNMENT OF TWO SUMMER YOUTH EMPLOYEES TO COMMUNITY OUTREACH INC.

City Manager Farris read the resolution stating that Community Outreach Inc. has requested a grant of $5,000 and the assignment of two summer youth employees to support a summer enrichment program for disadvantaged youth. The summer enrichment program is consistent with the City Council's objective of providing community recreation and training programs for the City's youth. This resolution will authorize the assignment of two summer youth employees to Community Outreach Inc. and authorizes a grant of $5,000 from Council's contingency.

Upon inquiry of Councilman McClure, City Manager Farris said that the $5,000 can come out of the $100,000 already set aside for the City's Summer Youth Program.

Councilman Swicegood asked several questions about the program and due to the City's tight budget, he felt they should not be authorizing any grant without going through the outside agency review process first.

Councilwoman Field agreed with Councilman Swicegood regarding the outside agency review process.

Councilman Watts moved to adopt an amended Resolution No. 94-112 to only authorize the assignment of two summer youth employees to Community Outreach Inc. This motion was seconded by Councilman McClure and carried unanimously.

Councilwoman Field recommended the $5,000 request be handled through the outside agency review process.

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C. RESOLUTION NO. 94-113 - RESOLUTION APPROVING REDUCTION IN FORCE POLICY

City Manager Farris read the resolution authorizing him to provide the following benefits to employees laid off as a result of the reduction in force: (1) a lump sum payment equal to one week's salary for every year employed by the City up to a maximum of twelve weeks; and (2) payment for full health insurance coverage for a period equal to twelve weeks.

Councilwoman Field moved for the adoption of Resolution No. 94-113. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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D. RESOLUTION NO. 94-114 - RESOLUTION ENCOURAGING THE APPROPRIATE REUSE OF THE GROVE ARCADE

City Manager Farris read the resolution stating that the Grove Arcade is the largest building in downtown Asheville, and it will become vacant in the summer of 1994. The architectural and historic significance of the Grove Arcade has been recognized by its entry on the National Register of Historic Places. The City Council wishes to encourage and support adaptive reuse of the Grove Arcade. The Public Market proposed by the Grove Arcade Foundation is an appropriate use for the building, will help create jobs and generate revenues to the City, and will support programs to revitalize downtown Asheville. The resolution resolves:

1. That City Council endorses the concept of a Public Market in the Grove Arcade.

2. That the City Council will provide up to $100,000 to the Grove Arcade Foundation to be used solely for the capital cost of renovating the Grove Arcade Building. The grant funds may also be used to match other funding sources as appropriate.

3. That the City will allocate the funds in three annual installments beginning in FY 1994-95. The funds will be retained by the City until the Grove Arcade has sufficient funds to complete the renovation of the building.

4. That the City Council agrees that the City will work with the General Services Administration to acquire the Grove Arcade for the purposes of facilitating the adaptive reuse of the building and insuring that development of the property is consistent with the goals of the City.

Councilwoman Field asked to be excused from voting on this matter due to a possible conflict of interest.

City Attorney Slawter stated that State law provides that council members be excused from voting on matters when their own personal conduct or financial gain is involved.

Following questions from other members of Council, there was no motion to excuse Councilwoman Field.

Vice-Mayor Peterson moved to adopt Resolution No. 94-114. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Councilwoman Field and Councilman Swicegood voting "no".

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E. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop requested a copy of the State law where the Institute of Government's opinions supersede State law.

City Attorney Slawter explained that the Institute of Government only interprets State law.

F. LAWSUITS

City Manager Farris said that the City was served with the following lawsuit on May 28, 1994: County of Buncombe v. Pinner, City of Asheville, et al. (tax foreclosure).

He said a copy has been referred to the appropriate legal counsel for action.

G. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of May 21-31, 1994: Lowenia Davidson (Streets), Wendal Gillespie (Streets), Mark Mangum (Water), Beverly Ramsey (Streets), and Ruth Canter (Meter Reading).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:09 p.m.

William S. Holcombe
CITY CLERK

MAYOR

Tuesday - June 21, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-115 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE TEDDY STROUPE

City Manager Farris read the resolution stating that Teddy Stroupe has been an employee for 25 years and has requested retirement from his position as Fire Captain. He expressed City Council's appreciation to Teddy for his service to the City of Asheville and its citizens.

Resolution No. 94-115 was adopted by acclamation.

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B. RESOLUTION NO. 94-116 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE MICHAEL EVANS

City Manager Farris read the resolution stating that Teddy Stroupe has been an employee for 24 years and has requested retirement from his position as Street Superintendent. He expressed City Council's appreciation to Mike for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-116. This motion was seconded by Councilwoman Field and carried unanimously.

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II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CLOSING AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET

RESOLUTION NO. 94-117 - RESOLUTION CLOSING AN UNNAMED STREET BETWEEN WESTCHESTER DRIVE AND PISGAH STREET

Mayor Martin opened the public hearing at 4:16 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said that a petition has been received from property owners along an unnamed street between Westchester Drive and Pisgah Street in the Kenilworth area requesting the unnamed street be closed to public use. Currently the street right-of-way is being utilized as a driveway to the petitioning property owners' residence.

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Upon being closed, the unnamed street right-of-way would become private property and would be taxable as real property.

Upon inquiry of Mr. Tom Wernicke, owner of property adjoining the street, relative to a right-of-way for a gas line, City Attorney Slawter said that the resolution closing the street is subject to the retention by the City and its assignees of an easement for the installation and maintenance of public utilities to be located within the entire portion of the unnamed street to be closed.

Ms. Ann Runne, petitioner, said that Public Service Gas already has a 10 foot easement and urged Council to close the unnamed street.

Mayor Martin closed the public hearing at 4:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 94-117. This motion was seconded by Councilman McClure and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO CLOSING THE NORTHERNMOST 170 FEET OF SKYVIEW PLACE

Mayor Martin opened the public hearing at 4:21 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said that a petition has been filed by Steve and Deborah Sutton requesting the northernmost 170 feet of Skyview Place be permanently closed to public use. This portion of Skyview Place has created several problems for both the city and the Suttons over the last several years. The steep bank on the east side has slid out on several occasions and numerous actions have been taken to prevent this from occurring, but none have been successful.

Skyview Place has been a City system street as far back as City system street records exist, but there is no platted public right-of-way for the street which connects Sunset Drive with Town Mountain Road. Closing the northernmost 170 feet of Skyview Place will not deny any property owner public access to their property, but will require that Town Mountain Road be utilized for access rather than Sunset Drive for those owners whose driveways are off Skyview Place and that Sunset Drive rather than Skyview Place and Town Mountain Road be utilized for access by those owners whose driveways are off Sunset Drive.

The property owners who could be directly affected by the closing were notified by certified mail since they did not sign the petition.

The closing of the northernmost 170 feet of Skyview Place will allow the Suttons to utilize the roadway of Skyview Place for placement of fill material, and hopefully eliminate the problems with the bank sliding off and blocking the road, as well as undermining the foundation of the Sutton residence.

The road is only 14 feet wide and does not qualify for Powell Bill funds; therefore, no revenues will be lost as a result of the closing.

There is the possibility that some of the adjoining property owners may object to the closing, but they will have access to their property; therefore, the closing can be made in compliance with state regulations.

He suggested Council hold the public hearing and continue the matter in order to look at other options available for the Suttons.

Mayor Martin stated that he visited the site and felt there the Suttons definitely had a problem whether that portion of the street was closed or not.

Mr. Bob Tucker, owner of 12-unit building on Skyview Place, felt that if Council closed that portion of Skyview Place there would be a serious traffic hazard. He felt that Skyview Place was not wide enough to even be a [illegible]-way street. He passed out pictures that illustrated the safety hazard and was sympathetic with the Suttons but urged Council not to close that portion.

Ms. Jane Hurrell, 8 Skyview Place, also urged Council not to close that portion due to a traffic hazard. She suggested making Skyview Place a one way street.

Mr. John Abbott, owner of property on Skyview Place, asked Council to keep Skyview Place open for the convenience and safety of the property owners. He also was sympathetic with the Suttons but urged Council not to close it. As a contractor, he felt that the Suttons' problem was caused by improper maintenance of Town Mountain Road. He also felt Skyview Place should be a one-way street.

He said that the City has received a letter from Dr. Margaret G. O'Donnell and Roderick D. Whitlock, property owners of 1 Skyview Place, strongly objecting to this closing for the following reasons:

1. Closing this portion of Skyview Place would close off safe access to the property from Sunset Drive, forcing residents along Skyview Place to enter from Town Mountain Road. Because of the curvature of Town Mountain Road above Skyview, the intersection is hazardous most of the time and very dangerous during rush hour. Additionally, the steep grade of Skyview Place at its intersection with Town Mountain Road causes drivers to proceed cautiously onto Skyview from Town Mountain, creating the potential for collisions with oncoming traffic.

2. Since Skyview Place is a narrow, virtually one-lane road, closing one end would force residents to back up out of their parking areas. Garbage trucks and other utility vehicles, as well as emergency vehicles, would find it impossible to service the homes along Skyview.

3. During snowy days, access from Town Mountain Road is impossible. It is crucial that there be access to Sunset Drive from Skyview Place at these times.

4. Skyview Place is a city maintained street and has been at least since 1976; it was asphalted in 1977 or 1978 and has been under city care since that time. We see no reason why Skyview Place should not remain a city street with open access at each end.

5. We perceive that our property value will decline as a result of this closure which would limit movement along Skyview Place.

Mr. Alexander Troy (owner of the rental property at #2 Skyview Place) and Ms. Mary Daniels (owner of #1 Skyview Place) both called his office to voice their objections to the closing of this portion.

Mr. Steve Sutton, petitioner of the property in question, felt that the 170 feet he is requesting to be closed is entirely on his property and has never been maintained by the City. He explained that it needs to be closed in order that he can rehabilitate and expand an existing retaining wall which is on their property. He explained that his yard has almost eroded to the foundation of his house and one or two more heavy rains, his house will be severely damaged. He said they have asked for Skyview Place to be made a one-way street in the past in addition to asking for some relief in drainage problems. He passed out pictures to the Council which showed the seriousness of the problem.

Mr. John Abbott addressed Mr. Suttons' comments as they related to the paving and re-paving of Skyview Place.

Councilmembers agreed that the Suttons have a serious problem and asked the City Manager to see if he could find some avenues to help the Suttons.

Upon inquiry of Councilman McClure, City Attorney Slawter said that from what he has been able to determine, there has never been a dedication to the City of the right-of-way for that street. However, it is not uncommon at all for the City to acquire whatever public interest is held in the street by performing of maintenance on the street through the years.

When Councilwoman Sitnick asked Mr. Sutton if making Skyview Place a one-way street would solve his problem, he replied that it would not, because he needed that additional property to draw the slope.

Mayor Martin closed the public hearing at 4:38 p.m.

Councilwoman Field moved to continue this matter until July 19, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

C. PUBLIC HEARING ON VARIANCES RFQUESTED FOR MOUNTAIN CHATEAU SUBDIVISION

Mayor Martin opened the public hearing at 4:39 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that John Campbell of Beverly Hanks and Associates has proposed a 10 lot subdivision located off Vance Gap Road. The entire property includes 18 acres of mostly wooded and steeply sloping land. As a part of the subdivision proposal, the developer is requesting three variances from the subdivision regulations. They are as follows:

1. The subdivision regulations require that each lot abut a public street. The developer desires to utilize an existing private street within the property to provide access to several of the lots. The street is not publicly maintained nor is it built to the standards required by NC DOT. Therefore, a variance is requested in order to create lots which do not abut a public street.

2. The subdivision regulations require streets within a subdivision to have a minimum right-of-way width of 50 feet. The developer proposes a right-of-way width of 45 feet. NC DOT street standards do permit a 45 foot right-of-way. Therefore, a variance is requested to reduce the required right-of way width to 45 feet..

3. The subdivision regulations require that lot lines which abut streets be located at the edge of the right of way rather than at the centerline of the right-of-way. The lots in Mountain Chateau Subdivision were originally platted with lot lines at the centerline of the street. The developer has since replatted the lots and located the lot lines at the edge of the right of-way, except for Lot 11. Lot 11 was not replatted due to the fact that it was illegally sold prior to the subdivision review process. Therefore, a third variance is requested to permit the property line of Lot 11 to be located at the centerline of the right-of-way.

At the Planning & Zoning Commission's meeting on June 1, 1994, they approved the preliminary plat for Mountain Chateau Subdivision with five conditions including two conditions with address the variances requested.

1. Mountain Chateau Lane should be upgraded to NC DOT standards and dedicated to the public.

2. City Council approve the variance request regarding the reduction of the right of-way width to 45 feet.

3. City Council approve the variance request to permit the property line of Lot 11 to be located at the centerline of Mountain Chateau Lane.

4. Approval from the Buncombe County Fire Marshal regarding enlargement of cul-de sac.

5. Lots 7 and 8 shall be renumbered as one lot and Lots 9, 10 and 11 shall be renumbered accordingly.

He read a letter from the City Fire Marshal & the Deputy Buncombe County Fire Marshal in which they state their opposition to two of the three requested variances. Those being the variance in order to create lots which do not abut a public street, and the variance to permit the property line of Lot 11 to be located at the centerline of Mountain Chateau Lane. They felt that "a dedicated street is essential for the fire protection access. We have seen past property disputes over road access ownership impair our ability to provide fire protection."

Upon inquiry of Councilwoman Field, Mr. Nicholson said the 12% grade of the street would pose no problem for emergency vehicles.

Councilwoman Sitnick wondered, even though the stormwater management ordinance is not in effect until July 1, if the developer has installed any stormwater control measures in the subdivision. Mr. Nicholson felt that measures were being taken to control stormwater runoff.

As a result of questions by Council about the variance regarding the centerline of Lot 11 and the possible action of the owner of Lot 11 preventing an emergency vehicle from passing, Attorney David Matney, who previously researched that question, said the City would need to have the property owner of Lot 11 and their mortgage company sign a document to dedicate the right-of-way to public use.

Mr. C. Williams, property owner of Lot 11, stated that he would never stop an emergency vehicle from passing. He explained the problem surrounding his lot line. He hoped that Council would grant the variance, however, he did not want to hold up the development of the subdivision. He thought that if the variance was not granted, his home might be too close to the lot line which would result in a different variance being requested.

Ms. Jan Hildebrand spoke in favor of the development, however was concerned about stormwater runoff. She also urged City Council to request NC DOT to improve Vance Gap Road. She understood that Vance Gap was on their priority list at approximately #36 and hoped Council would ask that it be given a higher priority.

Councilwoman Field, member on the Transportation Advisory Commission, stated that the City Manager would soon be giving the City Council an update on the transportation issues.

Mr. John Campbell, Beverly Hanks and Associates, also commented on how the problem with Lot 11's lot line occurred. He explained the reason for the variance request on the private road. He said to pave the road up would cost approximately $10-18,000, which was expensive for 1,000 feet of road. He urged Council to pass all three requested variances.

Mr. David Matney, attorney representing Laura Ingle, spoke in favor of the development but felt the road needed to be built to NC DOT standards.

Ms. Elizabeth Graham, member on the Planning and Zoning Commission, explained that the Commission recommended bringing the road up to NC DOT standards.

Mayor Martin closing the public hearing at 5:07 p.m.

Councilman Watts moved to approve all three variances requested by he developer. This motion was seconded by Councilman McClure.

Councilman Watts moved to amend his motion to approve only the variances outlined in the Planning & Zoning Commission's recommendation, with the conditions imposed by the Planning & Zoning Commission's recommendation and the additional condition that the property owner of Lot 11 and his mortgage company provide a recorded dedicated right of way to public use. This amended motion was seconded by Councilman McClure and carried unanimously.

D. PUBLIC HEARING TO REZONE A PORTION OF 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

ORDINANCE NO. 2118 - ORDINANCE TO REZONE A PORTION OF 100 WOODLAND DRIVE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that the following ordinance would rezone a portion of property located at 100 Woodland Drive from CS Commercial Service to R-3 Medium Density Residential. This rezoning was petitioned by the property owners, Albert and Nan Fender. The requested rezoning has been recommended by the Asheville Planning and Zoning Commission and the City Planning staff.

This rezoning is recommended for the following reasons:

1. This property is currently developed with a single-family residence occupied by the owner/petitioner, which was made non-conforming as a result of City initiated rezoning during the 1975 comprehensive revision of the zoning ordinance.

2. This property is not suitable for commercial development because of poor road access. The closest access to major thoroughfare is approximately 1,500 feet along Woodland Drive, a narrow residential street.

Mayor Martin closed the public hearing at 5:18 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2118. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2118 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 237

E. PUBLIC HEARING TO ZONE SECTION IV OF BRAESIDE R-1 RESIDENTIAL DISTRICT

ORDINANCE NO. 2119 - AN ORDINANCE TO ZONE SECTION IV OF BRAESIDE R-1 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:19 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that the following ordinance would zone R-1 Single Family Residential the recently annexed (April 26, 1994) Braeside at Biltmore Park subdivision, Section 4, located on Overlook Road.

The area consists of 12.4 acres subdivided into 18 lots, with an average lot size in excess of 1/2 acre. Previously, Sections 1-3 of this subdivision have also been annexed and zoned R-1.

Mayor Martin closed the public hearing at 5:20 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2119. This motion was seconded by Councilman Watts.

On a roll call vote of 7 0, Ordinance No. 2119 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 239

At 5:25 p.m., Vice-Mayor Peterson moved to go into executive session to discuss a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:52 p.m., Councilman McClure moved to come out of executive session. This motion was seconded by Councilwoman Field and carried unanimously.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-118 - RESOLUTION AUTHORIZING THE IMPLEMENTATION OF A CITIZENS ON PATROL PROGRAM

Police Chief Annarino said that this resolution formalizes a program that the Asheville Police Department has been developing with the assistance of the Housing Authority of Asheville.

He summarized the program by saying it is a partnership between the Asheville Police Department, the Housing Authority of Asheville and residents of public housing to form and operate "citizen patrols"; neighbors working with the Asheville Police Department to canvas their neighborhoods for suspicious activity, suspicious vehicles, etc. Training and guidelines will be provided by the Asheville Police Department. Shirts, jackets, reflective vests and office space will be provided by the Housing Authority of Asheville. The program will be implemented on a trial basis at Woodridge Apartments. If proven successful, the program will be expanded into other public housing communities and perhaps even into private residential neighborhoods.

Ms. Noreen Woody, President of the Woodridge Residents Association, was very proud of this program and thanked the Police Department for their help in getting this program started.

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-118. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 368

B. ORDINANCE NO. 2120 - ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1994-95

Mayor Martin said that the public hearing on this ordinance was held on June 7, 1994.

City Manager Farris said that this ordinance reflects the recommended budget, as presented to the Council on May 24, 1994. The ordinance as recommended sets the tax rate at $.57/$100 valuation.

He summarized several items which were discussed earlier and then recommended a motion to amend the budget ordinance to reflect the following changes:

Chamber of Commerce	$90,000
Asheville Area Rescue Squad	22,500
A-B Community Relations Council	67,500
Drug Commission	0
Arts Alliance	22,500
Community Loan Fund	0
Crime Stoppers	26,820
RiverLink	16,200
League Convention	30,000
Community Policing Grant Match	30,000
Grove Arcade	10,000
CityWorks	48,825
Minority Business Program	0
Contingency	274,450

Regarding the $90,000 for the Chamber of Commerce, he confirmed that funds for the Chamber would be appropriated but not disbursed by contract until such time as the Council makes a decision about the Economic Development Commission. If the Council decides to go ahead with that Commission, the $90,000 would be included in whatever commitment the City makes.

Upon inquiry of Councilwoman Sitnick about the $48,825 for CityWorks, City Manager Farris said that the legal ad portion is already accounted for in the budget.

Councilwoman Field commented on how difficult it was making a decision to not fund the Drug Commission or the Community Loan Fund. She stated the Drug Commission is doing an excellent job. She said that even though the Community Loan Fund was not as successful, a serious effort to improve has been undertaken. It was her understanding that Community Loan Fund is funded through September and if a serious improvement is seen, can come back before the Council for funding.

Councilman Swicegood also felt Council had some tough decisions to make regarding the budget. He felt they made the best decisions they could and the right thing for the City.

The following persons briefed Council on success stories and how important the Drug Commission is and pleaded with Council to re-consider and fund the Drug Commission:

Mr. Bernice Roberts, Chairman of the Buncombe County Drug Commission
Mr. Milton Burrill, resident of Asheville
Ms. Debra Austin, Asheville Community Theater
Ms. Carmen Copenhaver, member on the Drug Commission
Ms. Barbara Zimmerman
Mr. Mike Lewis
Mr. Gerald Gentry

As a rebuttal to a comment made, Mayor Martin stated that all of Council were aware of the drug problems in Asheville and technically, any appropriation that the Commission receives from the County includes a portion paid by City residents.

Councilman Watts understood that drugs are a serious problem in Asheville and suggested funding $13,500 (half of the recommended amount) and monitoring the problem. Councilwoman Field agreed with Councilman Watts.

Councilmen McClure and Swicegood felt that the decisions made earlier were unanimously by the Council.

Councilwoman Sitnick stated up front that she was not on the Council committee that discussed outside agency funding and did not have any of the background information those members had. She said she is one for changing the usual bureaucratic system of government that reacts to crisis, instead of acting preventively. She truly believed it is cheaper in the long run to spend money up front than to deal with the issues down the line where drugs are concerned. She agreed with a comment earlier about the City asking questions and putting conditions on agencies when they budget money to those agencies. She felt this Council expends large sums of money for various projects and programs and sometimes it's hard for her to reconcile that spending. Thus, in the overall scheme, the money requested by the Drug Commission is not much. If there are concerns about the effectiveness of the Drug Commission or the way the Commission spends that money, the Council has a right and obligation to the taxpayers to find out how the money is being spent and have an accountability mechanism put in place. She felt that Council should try to find the money for the Commission in order to (1) fund a Commission that might need to be better, (2) to show Council's commitment in combating drugs in our community, and (3) to work together more closely and frequently. She stated that drugs are a national shame and this Council should be flexible enough to try to find some money in the contingency fund to budget the Commission.

Vice-Mayor Peterson and Councilman McClure felt that if the Council now decides to fund some money to the Drug Commission, the items and budgets already agreed upon earlier might have to be reconsidered again.

City Manager Farris said that he would come back to the Council with recommendations concerning what the City could expect for the money they allocated for CityWorks.

Councilman Swicegood felt that $27,000 was a lot of money and felt that cuts needed to be made somewhere and the Drug Commission should not be funded.

Councilwoman Field moved to amend the budget ordinance as follows:

Chamber of Commerce	$30,000
Asheville Area Rescue Squad	22,500
A-B Community Relations Council	67,500
Drug Commission	13,500
Arts Alliance	22,500
Community Loan Fund	0
Crime Stoppers	26,820
RiverLink	16,200
League Convention	30,000
Community Policing Grant Match	30,000
Grove Arcade	10,000
CityWorks	0
Contingency	260,950

She said everything else is zero funded and would have to come out of contingency.

This motion was seconded by Councilman Watts and carried on a 4-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "no".

All of Council expressed their appreciation to City Manager Farris, Associate City Manager Wolcott, Bob Wurst, Vicki Heidinger and all City staff for cutting the budget by $3.5 million and not raising taxes for the fifth year in a row.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2120, as amended. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2120 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 242

C. RESOLUTION NO. 94-119 - RESOLUTION OF THE CITY OF ASHEVILLE, N.C., PROVIDING FOR THE ISSUANCE OF $4,000,000 GENERAL OBLIGATION WATER BONDS, SERIES 1994 OF THE CITY OF ASHEVILLE, N.C.

City Manager Farris said that this resolution authorizes the issuance of $4,000,000 General Obligation Water Bonds, series 1994 of the City of Asheville.

The funds will be used for the construction of improvements to the water system as approved by the voters of the City at a referendum on November 5, 1991. That referendum authorized $26,000,000 of General Obligation Water Bonds, of which $19,000,000 were issued on March 31, 1992. Following the sale of the currently proposed issue, a balance of $3,000,000 will remain as "authorized but unissued."

So as to obtain the most beneficial financing rate for the City, the bonds will be marketed by the NC Local Government Commission through sealed competitive bids which are to be opened on July, 19, 1994.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-119. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 369

D. RESOLUTION NO. 94-120 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL OF THE CITY OF ASHEVILLE TO INCLUDE FEES FOR THE STORMWATER MANAGEMENT ORDINANCE

City Manager Farris said that this resolution will amend the Fees and Charges Manual of the City of Asheville by adding fees for implementation of the stormwater management ordinance.

On June 7, 1994, City Council adopted a stormwater management ordinance, to be effective July 1, 1994. The stormwater management ordinance requires that a fee be paid for an application for a stormwater discharge permit ($400.00) and that a fee shall be charged for annual inspections of detention or retention basins by the City Engineer ($100.00).

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-120. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 377

E. RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND EXXON CORPORATION FOR CITY-OWNED PROPERTY ON AIRPORT ROAD

At the request of the City Attorney, Vice-Mayor Peterson moved to delay this matter until July 19, 1994. This motion was seconded by Councilman Swicegood and carried unanimously.

F. RESOLUTION NO. 94-121 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CAMBRIDGE INTERESTS INC. FOR A PEDESTRIAN BRIDGE CONNECTING PROPERTY OWNED BY CAMBRIDGE INTERESTS INC. TO THE RANKIN AVENUE PARKING GARAGE

City Attorney Slawter said that on October 26, 1993, the City Council authorized the City Manager to sign an agreement with Cambridge Interests Inc. providing for a pedestrian bridge between the Rankin Avenue parking garage and the old Penney's building. The scope of that project now calls for the pedestrian bridge to also extend to the Infill building, located next to the old Penney's building. This should cause no additional burden on the Rankin Avenue parking garage, but since the 1993 resolution specifically referenced only the Penney's building, the City Attorney thought it would be best to have additional authority from the Council authorizing the newly proposed agreement providing for the pedestrian bridge to extend to both buildings.

Upon inquiry of Councilman McClure, City Attorney Slawter said that this will be no cost to the City, however, if the City does incur any cost, it will be reimbursed by the developer.

When Councilwoman Field asked about a possible conflict of interest, City Attorney felt there would be none.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice Mayor Peterson moved for the adoption of Resolution No. 94-121. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 378

G. RESOLUTION NO. 94-122 - RESOLUTION APPROVING THE INSTALLATION OF AN ABOVE-GROUND GASOLINE STORAGE TANK AT THE ASHEVILLE REGIONAL AIRPORT

City Manager Parris said that this resolution provides for approval of an above-ground gasoline storage tank at the Asheville Regional Airport.

North Carolina's State Building Code (Volume 1, Appendix T) requires that, before an above-ground gasoline storage tank can be installed in Asheville, the City Council must provide final approval.

Until just a few years ago, above-ground gasoline storage tanks were virtually prohibited by North Carolina's safety codes. This was because of the risk associated with above-ground storage of flammable liquids like gasoline. If gasoline escapes from an above ground tank, there is an immediate risk of fire.

Underground storage tanks were the preferred alternative until environmental protection agencies discovered the vulnerability of many underground storage tanks to leakage, which often resulted in soil contamination and pollution.

North Carolina's code now allows above-ground gasoline storage tanks if the risk of gasoline leakage is low, if the tank is isolated, if the tank is properly protected from fire and explosion, and if other similar safety requirements are taken into account, and, finally, if local safety officials and the local governing body approve.

A car rental agency at the Asheville Regional Airport is proposing a 1,000-gallon above ground gasoline storage. This tank would be placed in a non-public area, behind the Airport's security fence, and would be what is called a "vaulted tank"- that is, a "tank within a tank"--so if a leak were to occur in the "inner" tank, that leakage would be contained in the "outer" tank.

The Fire Department's fire code enforcement team has reviewed this proposal, and believes that this above-ground tank is an acceptable and safe alternative to an underground gasoline storage tank, given the type of tank proposed, the relatively small volume of gasoline involved, and the overall controls of access and exposure at the proposed site. Fire Chief John Rukavina and Acting Fire Marshal Wayne Hamilton have approved this proposal, and recommended that the City Council approve this above ground storage tank installation as provided for in Volume 1, Appendix T of North Carolina's State Building Code.

Fire Chief John Rukavina answered Councilman Swicegood's question of where exactly the tank would be located.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-[illegible]. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 379

H. ORDINANCE NO. 2121 - ORDINANCE ADDING PROVISION TO PROHIBIT POSSESSION OF FIREARMS OR WEAPONS IN CITY PARKS OR FACILITIES

City Manager Parris said that the Parks and Recreation Department has requested that the City Council consider adoption of an ordinance

prohibiting possession of firearms or weapons in City parks or facilities. As the violation of this proposed ordinance would constitute a misdemeanor, the City Attorney's office consulted with the District Attorney's office about the language in this ordinance. We now have their approval of this language.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2121. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2121 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 248

I. ORDINANCE NO. 2122 - BUDGET AMENDMENT RELATIVE TO YEAR END BUDGET ADJUSTMENTS

City Manager Farris said that this budget amendment is simply "bookkeeping" revisions. The revisions are for (1) provision for unplanned overtime, (2) information service charge revisions, (3) pay plan distribution, (4) capital projects previously approved in operating funds, and (5) risk management fund establishment.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice Mayor Peterson moved for the adoption of Ordinance No. 2122. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2122 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 249

J. RESOLUTION NO. 94-123 - RESOLUTION TO AWARD THE BID FOR THE PURCHASE OF 16 TRANSIT BUSES FOR THE CITY OF ASHEVILLE/ASHEVILLE TRANSIT AUTHORITY

City Manager Farris said that the resolution recommends awarding Bid Request No. 424 94 for 16 transit buses to Bus Industries of America Incorporated.

Pursuant to North Carolina General Statute sec. 143 129 and in compliance with the City's Minority Business Plan, sealed bids were invited to furnish the Asheville Transit Authority with 16 30 x 96 transit buses. One bid was received.

Since only one bid was received, the Transit Authority conducted a cost/price survey to identify other North Carolina systems who have purchased transit buses within the last few years. This information was submitted to NC DOT Public Transportation and Rail Division. A complete copy of the summary is attached hereto as Exhibit "A".

With the state's concurrence and Council's approval, he recommended to enter into a contract with the sole bidder, Bus Industries of America, Inc., Oriskany, NY, to purchase 16 1995 "Orion"

Model 05.505 transit buses at a cost of $215,200 each for a grand total of $3,443,200. The Assistant City Attorney recommends that the award of the bid be made conditioned upon Bus Industries of America, Inc.'s, compliance with bid specifications as approved by the Public Transportation Division of NC DOT. The Planning Department and the Transit Authority concur with this award.

Upon inquiry of Councilwoman Sitnick, Transportation Planner Carl Ownbey said that the new buses would meet EPA standards.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-123, with the condition that Bus Industries of America Inc. comply with bid specifications as approved by the Public Transportation Division of NC DOT. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 380

K. ORDINANCE NO. 2123 - BUDGET AMENDMENT TO APPROPRIATE HOME INVESTMENT PARTNERSHIPS PROGRAM GRANT FOR ASHEVILLE REGIONAL HOUSING CONSORTIUM

City Manager Farris said that this budget amendment, in the amount of $1,152,000, is to appropriate HOME Investment Partnerships Program grant and matching funds.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2123. This motion was seconded by Councilman McClure.

On a roll call vote of 7 0, Ordinance No. 2123 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 256

L. RESOLUTION NO. 94-124 - RESOLUTION OF INTENT TO CREATE REGIONAL ECONOMIC DEVELOPMENT COMMISSION

City Manager Farris said that the City of Asheville and the County of Buncombe through informal discussions and dialogue between individual members of the respective governing bodies have been exploring the feasibility of establishing an Economic Development Commission. The citizen council board recognizes the need for a sustained, organized and concerted effort to encourage the location of appropriate manufacturing enterprises, industrial and commercial plants and businesses in Asheville and Buncombe County. The city council wishes to enter into an interlocal agreement to provide funding for an Economic Development Commission which would be governed by by-laws approved by the City and County and which would approve and implement an economic development program including, but not limited to the following:

(a) establish and maintain an economic development database;
(b) prepare an economic development strategy with broad-based community participation.

(c) develop a comprehensive program and visual and written materials to encourage the location and/or relocation of manufacturing, industrial and commercial businesses within Buncombe County;
(d) develop programs to encourage the retention and expansion of existing businesses;
(e) assist and encourage local entrepreneurs in the creation of new small business enterprises;
(f) such other activities as authorized by state law or the By-Laws of such proposed commission.
(g) employ at least one economic development professional and supporting staff to maintain an Economic Development Office at the Asheville Chamber of Commerce or at such other location as may be selected and approved by the commission.

He said this resolution will express City Council's intent to enter into an Interlocal Agreement with Buncombe County to create an Economic Development Commission consisting of nine members, four of whom would be appointed by the City of Asheville, four of whom would be appointed by the County and a ninth member appointed by the eight members thus appointed by the City and County. He strongly recommended the City Manager and the County Manager be a part of this Commission as well.

The resolution also expresses Council's intent to fund said proposed Economic Development Commission in an amount up to $400,000 per year subject to the drafting and adoption of an Interlocal Agreement.

Councilwoman Field asked that her following concerns be included in the interlocal agreement: language about sustainable development, the limit of percentages for administration, the recognition of materials that have already been developed by the Chamber, etc.

Councilwoman Sitnick said that she was just presented with this matter last week and, even though she realizes that Asheville needs economic development and that good jobs are crucial to our city and to our economy, she feels like she is being rushed into this matter. She has no problem in committing to a resolution of intent to create the commission, however, she has some concerns, one being there has been no time for public input. She has received dozens of phone calls and inquiries from taxpayers asking where the City will get the $400,000. She stressed that her comments are not to cast out the intent to create the commission, but merely to raise questions about it, which is her job as a Councilmember. She said that the City has funded $100,000 to the Chamber of Commerce in the past for economic development and would like to know what their track record has been, what has been forthcoming for the $100,000 so the Council knows what better to expect for its additional funding. Basically she needs to know what can the City expect for this investment what is our return. If a bank gives a business a loan, there would be a business plan, conditions on the loan and expectations regarding the loan.

Mayor Martin said that it is true that the City has in the past given the Chamber of Commerce $100,000. However, only $40,000 has been for economic development and the rest went for the visitor's center and other programs.

Councilwoman Sitnick continued by saying it's important for the City to know what kinds of jobs are going to be created. She stressed

the importance of preparing an economic development strategy before funding and that is the first phase of cooperation. She agreed with Councilwoman Field's concerns. She said we have to make sure that City taxpayers are only paying a fair share and no more and if Council is going to be spending taxpayers' money we need to know that their money will be working for all citizens. She felt that the City needs to sit down with the commission to make sure that everyone has the same vision for Asheville, for Buncombe County and for economic development. She thinks it's important that when the criteria is developed for the interlocal agreement that the City Manager and County Manager are on that commission and felt that it was important to include at least one member who has a background in sustainable development. She felt we needed to stress in the interlocal agreement the development of small business, not just industry. She thanked Councilman McClure for bringing up an issue last week about a municipality's responsibility in part regarding economic development which is to provide adequate infrastructure in order to support that development. The City needed to look at that responsibility carefully. She felt the City needed to consider the matter that the County has many, many more acres that are developable for industry than the City has and would that mean that the City is not going to benefit. She stressed that all her questions are because she has not had adequate time to consider this matter but felt they are necessary because $400,000 is a lot of money and this is a large subject. The City has 22,500 acres and only 7% of those developable and the County has 183 acres that are developable, which makes it approximately $4,730 an acre to develop that land in the County. She suggested that the commission use a book entitled Mayor's Task Force on Unemployment that was developed by the City of Wilmington in 1991 at which time the City Manager was Asheville's present Interim City Manager. She said a lot of groundwork has already been done in the area of providing jobs in cities and the book deals with unemployment and what to do about it. She hoped all her comments would be taken into account because Council is accountable to our taxpayers and it is their money we are spending.

Mayor Martin said that the Chamber has had ongoing economic development and has been able to cope with the exiting of jobs in our community and they have also been able to make small strides on the plus side. However, we need to do better than this and that is why we need to fund this effort. He said that the City Manager has, at his request, furnished the Council with an analysis of the relative impact of the proposed economic development commission on the city and non-city taxpayers. He felt that all the questions raised were valid and would be addressed.

Councilman Watts also felt that there was not enough time to study this issue and research it.

Mr. Chuck Reiley, President Elect of the Asheville Area Chamber of Commerce, spoke about the potential that is there for the City and the County to come together in a combined effort towards a very achievable and reasonable cause for this community. He said the Chamber would be willing to work with the City and County in the challenges ahead.

Upon inquiry of Mr. Ralph Bishop about how much it will cost the taxpayers, Mayor Martin said that no determination has been made yet as to the extent of the City's funding. He said that this is only a resolution of intent to create the economic development commission.

Mr. Mike Lewis, representing the Asheville Coalition of Neighborhoods, felt that there was a great deal of merit on the concept

of an entity that will focus its efforts on quality economic development because the City has lacked systematic and comprehensive planning. He did, however, ask Council to delay any action at this meeting and stated his reasons for such a request. He urged Council to pass the unified development ordinance which respects the legitimate needs of neighborhoods.

Councilman McClure stated that the Council responded to some of the issues raised by Mr. Lewis.

Ms. Barbara Shook read a statement about the need for the unified development ordinance as it ties into the need for economic development.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-124. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 382

M. RESOLUTION NO. 94-125 - RESOLUTION AUTHORIZING THE TRANSFER OF OWNERSHIP OF TWO VEHICLES TO ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

City Manager Farris said that this resolution requests the Council's authorization to transfer ownership of two surplus vehicles to Asheville-Buncombe Technical Community College. The community college intends to use these vehicles for Basic Law Enforcement Training purposes. This arrangement is considered to be in the best interest of the City of Asheville and the community college in that the community college does provide Basic Law Enforcement Training for Asheville police officers. As authorized under North Carolina General Statue 160A 274, "any government unit may upon such terms and conditions as it deems wise with or without consideration exchange with any other governmental unit of any interest in real or personal property that it may own."

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-125. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 384

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON MAY 17, 1994, AND JUNE 7, 1994

Mr. Ralph Bishop stated that it was his opinion that when a person gets elected to public office, anything that person says is public record. He asked why Councilwoman Sitnick's comments on June 7, 1994, were not in the minutes pertaining to her researching that the City did not have to keep verbatim Council minutes.

Councilwoman Sitnick replied that she made an inquiry to the Institute of Government to confirm whether or not verbatim minutes were

required by State law. They confirmed, what the City Attorney has said meeting after meeting, that we are not required by law to type of verbatim minutes of every Council meeting.

B. **RESOLUTION NO. 94-126 - RESOLUTION SETTING A PUBLIC HEARING FOR JULY 19, 1994, DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH 35 OAK PARK ROAD, ASHEVILLE, NORTH CAROLINA**

RESOLUTION BOOK NO. 21 - PAGE 386

C. **RESOLUTION NO. 94-127 - RESOLUTION SETTING A PUBLIC HEARING FOR JULY 19, 1994, TO ANNEX A NON-CONTIGUOUS AREA ON GLEN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY**

Summary: The Planning Department has received a petition for annexation of a non-contiguous parcel of property located on Glen Bridge Road which is owned by Randy and Cathy Warn. The property is not more than three miles from the primary corporate limits, and is not closer to the primary corporate limits of another city than it is to the City of Asheville.

The next step in the annexation procedure is to adopt a resolution setting a public hearing on the question of annexation. A report will be prepared by the Planning Department describing how the area to be annexed meets the standards for annexation as set out in N.C. Gen. Stat. sec. 160A 58.2, as amended.

RESOLUTION BOOK NO. 21 - PAGE 288

D. **RESOLUTION NO. 94-128 - RESOLUTION OF INTENT TO CLOSE HENRY STREET AND AN UNNAMED ALLEY OFF GUDGER STREET AND CALLING FOR A PUBLIC HEARING ON JULY 19, 1994**

RESOLUTION BOOK NO. 21 - PAGE 389

Councilman McClure moved for the adoption of the Consent Agenda. This motion was seconded by Vice Mayor Peterson and carried unanimously.

VI. OTHER BUSINESS:

A. **LAWSUIT SETTLEMENT**

Councilman Watts moved to settle the City v. Ledal Inc. and Ledal South Inc. lawsuit. This motion was seconded by Vice Mayor Peterson and carried unanimously.

B. **CLAIMS**

City Manager Farris said that the following claims were received by the City of Asheville during the week of June 1-10, 1994: Mary King (Streets), Rick Craddock (Parks), Francis Norton (Water), Mary Ann Owen (Civic Center), Audrey Owenby (Streets), Melvin Gregory (Sanitation), and Debbie Luther (Water).

He said that the following claims were received for the week of June 11-20, 1994: Mrs. Keller (Water), Jack Gray (Streets), and James Drummond (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:50 p.m.

William D. Malcolm, Jr.
CITY CLERK

MAYOR

Exhibit "A"

CITY OF ASHEVILLE
PURCHASING DIVISION
BID SUMMARY
BID REQUEST NO. 424-94
SIXTEEN (16) 30 FOOT TRANSIT BUSES
FOR THE ASHEVILLE TRANSIT AUTHORITY

BID ITEM	BUS INDUSTRIES OF AMERICA INC. ORISKANY, NEW YORK
1. 16 EACH TRANSIT COACHES 30 FOOT INCLUDING DELIVERY	
MAKE:	ORION
MODEL NO.:	05.505
MANUFACTURER:	BUS INDUSTRIES OF AMERICA INC.
YEAR:	1995
UNIT COST:	$215,200.00
AMOUNT:	$3,443,200.00
TERMS:	NET 30 DAYS
DELIVERY:	420 DAYS A.R.O.
BID DEPOSIT:	10% BID BOND

THE FOLLOWING COMPANY SUBMITTED A 'NO BID': THE FLXIBLE CORPORATION, DELAWARE, OHIO.

THE FOLLOWING COMPANIES DID NOT RESPOND TO BID: NEOPLAN USA CORPORATION, DENVER, COLORADO; GILLIG CORPORATION, HAYWARD, CALIFORNIA; CHESTNUT RIDGE, LATROBE, PENNSYLVANIA; ROHRER BUS SALES, RICHMOND, VIRGINIA; NATIONAL TRANSPORTATION SERVICE, SMYRNA, GEORGIA; BRAUN CORPORATION, WINAMAC, INDIANA; TRANSPORTATION SEATING, MONTEZUMA, GEORGIA; MOBILE TECH CORPORATION, HUTCHINSON, KANSAS; EVEREST SIGN & SUPPLY, DALLAS, TEXAS; ROMEO RIM, ROMEO, MICHIGAN; MKF, INC., FOGELSVILLE, PENNSYLVANIA; SANTA BARBARA RESEARCH CENTER, GOLETA, CALIFORNIA; FROSJOHN INTERNATIONAL INC., UPLAND, CALIFORNIA; ELDORADO NATIONAL, SALINA, KANSAS; AND NUMBER ENTERPRISES, INC., ROCK ISLAND, ILLINOIS.

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Tuesday - June 28, 1994 - 3:00 p.m.
Council Conference Room

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Deputy City Clerk Maggie Burleson

Absent: None

CIVIC CENTER COMMISSION INTERVIEWS

City Council held pre-arranged interviews for the Civic Center Commission with Hayes Martin, Joyce Dorr, Tom Muncy, Keith Green, Nancy Williams and Carolyn Ketchum.

Councilwoman Field moved to amend the membership of the Civic Center Commission to 11 members instead of 9 members. This motion was seconded by Councilwoman Sitnick and carried unanimously. City Attorney Slawter said that he would prepare the ordinance amendment for Council action on July 19, 1994.

Councilwoman Field moved to reappoint Hayes Martin and appoint Joyce Dorr, Carolyn Ketchum, Tom Muncy, Nancy Williams and Keith Green to the Civic Center Commission. This motion was seconded by Councilwoman Sitnick and carried unanimously. City Attorney Slawter said that a resolution would be prepared for official Council action on July 19, 1994.

RESOLUTION NO. 94-129 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH PAVING ENTERPRISES INC. FOR THE PROJECT KNOWN AS SONDLEY ESTATES STREET AND STORM DRAINAGE IMPROVEMENTS PROJECT

City Manager Farris read the resolution stating that it will award the Sondley Estates Street and Storm Drainage Improvements Project to Paving Enterprises Inc., being the lowest responsible bidder, in the amount of $363,330.

Due to insufficient bidders on June 14, 1994, a second bid opening was performed on June 20, 1994. Paving Enterprises Inc. was the low bidder, but because the bid was much higher than the engineer's estimate, the Engineering Department negotiated with Paving Enterprises and was able to reduce the total contract price from $489,216.25 to $363,330.00. This cost for construction will allow us to budget 5% for engineering services and 5% for contingency and stay within our $400,000 budget for this project.

Councilman Swicegood moved for the adoption of Resolution No. 94-129. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 390

RESOLUTION NO. 94-130 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE STREETS LOCATED IN SONDLEY ESTATES AS CITY-MAINTAINED STREETS

City Manager Farris read the resolution which will authorize the City Manager to accept, pursuant to a deed of conveyance from the

Sondley Homeowners' Association, the following streets located in Sondley Estates: Sondley Parkway, Sondley Drive, Sondley Woods Place, Sondley Drive South, Sondley Drive East and Sondley Drive North. The City Manager will also be authorized to sign the deed of conveyance, subject to City Attorney approval, and will be further authorized to cause the deed of conveyance to recorded in the Register of Deeds office upon payment of the recordation fee by Sondley Homeowners' Association.

Councilman McClure moved for the adoption of Resolution No. 94-130. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 391

DISCUSSION REGARDING RENEWAL OF LEASE WITH THE FAA

City Manager Farris said that the lease with the FAA is for the approximately 1,000 foot building at the Airport. The lease is for $747.00 per month with a five year term, renewable annually. The FAA asks in return for the City to paint the building and install a security system. He said that the security system would cost approximately $600-700.

Mayor Martin, Vice-Mayor Peterson and Councilman Swicegood stated that they had no problem with painting the building, however, the security system is not a part of maintenance of the building and should be paid by FAA.

City Manager Farris said the City wants to keep the FAA on that property. However, he would let them know the City would do the painting but they would be responsible for the installation of the security system. He said that a resolution to renew the lease will be presented at Council's meeting on July 19, 1994.

Councilman Swicegood moved to approve the lease renewal with the FAA and authorized the City Manager to have the building painted, subject to the City Manager confirming Council's intent with the FAA. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION NO. 94-131 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH WILLIAM B. FARRIS PROVIDING FOR CONTINUED SERVICES OF WILLIAM B. FARRIS AS INTERIM CITY MANAGER

City Manager Farris read the resolution, saying that the resolution would authorize the Mayor to sign an agreement with William B. Farris for continued services as Interim City Manager. Mr. Farris said that the agreement is for a two month extension, until September 1, 1994, and he would like to convert his contract to a daily contract due to commitments made earlier and a planned vacation.

Councilwoman Sitnick said that "unfortunately Carr came late today and I haven't had a chance to speak with you so I say this not in any way wanting to spring something on you. I have talked to everybody else. I haven't talked to you Bill (Farris) or you Bill (Slawter). I was sitting at the Water Authority meeting this morning and I was looking at you and I was thinking to myself - I'm mad about you. I've never been mad at you yet. Obviously this has remained up here (the name of "Bill Farris" was displayed as one criterion for a new City Manager) as one of our criteria and I was thinking to myself - when I was a kid, I used to say to my mother, send me to the Soviet Union and

I'll make peace with Khrushchev, I can do anything. And I thought, what can we do here in a situation where I feel, we all feel, the same way down here. And I thought that we had to honor your wishes and your plans and your feelings about the rest of your life and what you want to do with it, your family and the things that you have talked to us about. And we do honor that. But I'm going to say this, not in any way to put you on the spot or put anybody else on the spot, but really to think about it. There isn't another human being, who we could think of, who could come into this City at this particular time, under these particular circumstances and do the job you've done with the professionalism, with the ability to be smooth and calm and collected and intelligent to guide us the way you have, to be a part of this community the way you have, to deal with the factions the way you have, to deal with the staff the way you have, to do deal with the department heads the way you have and to deal with the media the way you have. And I thought to myself, we are on a roll at this point. I went over the 54 items that we enumerated during the retreat and I was amazed to see how many I could either cross through, because we've already done them, or put a check by, because we have begun them. And I must say, Bill, that without taking any of the credit away from the other Councilmembers or myself, because we've worked hard too, a lot of the credit goes to you. And I would like to present a possibility for you to think about and for Carr to think about because he has not heard this earlier and everybody else is on board on this. We want to keep you, but we want to honor your wishes as well. We would like to offer you whatever it will take from a contractual point of view so that you have the ability to work with UNC-Wilmington and any of the other pots you wanted to put your fingers into, and still be our City Manager - offering you the freedom to come and go as you need to. And us looking into hiring a very strong Assistant City Manager who we feel we could work with who would in part be guided by your light. So that at the very least for the next year and a half, we can have consistency, we can maintain the roll we're on, we can maintain the peace we have achieved, and so that we can have the kind of working situation that will go from this Council to staff, to department heads, to employees, to this community. Because it is a pebble in this pond that you are - that has the ripple effect beyond all of us put together. Again, this is not said to put you on the spot. We are not asking for an answer now. We are just saying, we can offer you whatever it will take to allow you the freedom to come and go, to do these other things that you want to do and so that you can be here when we need you, guide a strong Assistant City Manager and be part of this government and this community. We would like to make such a proposal to you."

City Manager Farris felt the proposal made was humbling and that he would be crazy not to think about it and try to work it out. He told Council of the things he was interested in - not only things outside of Asheville, but things happening right here. He said that he enjoyed working with Council individually and as a group and felt the Council, as a whole, doesn't get enough credit in the community. He said that if the Council was comfortable in at least exploring some options along this line, he would certainly do his best to try to put something together that would make sense for all concerned.

Councilman Swicegood also supported Bill Farris staying and that Asheville needed his strong leadership. He did feel that Asheville needed one "chief" and thus was not sure how having a strong Assistant City Manager would come into the picture. He did feel that this proposal would be worth exploring.

Councilwoman Sitnick said that "when I said a strong Assistant City Manager, what I meant was a competent Assistant Manager who can handle the day to day stuff with Bill still Manager and leader."

When Councilwoman Field asked City Manager Farris if he knew of any person that he would put in that position, he responded that he did know people that could be in that role and be effective.

City Manager Farris said that Councilman Swicegood brought up a good point and it should be addressed. If a contract were drawn up for either an 18-month period or a 24-month period, it would be the kind of thing that would need to be reviewed and renegotiated. It would have to have specific things in there that Council would want to accomplish.

Mayor Martin asked the City Manager try to put something together for the Council to look at.

Councilwoman Field moved to adopt Resolution No. 94-131, with a condition that City Manager Farris receive a paid 7 day vacation. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 392

REGIONAL WATER AGREEMENT

Councilman McClure moved to authorize the Mayor to execute a regional water agreement by and among the Asheville-Buncombe Water Authority, the City of Asheville and the County of Henderson. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

DISCUSSION REGARDING FOUR-YEAR STAGGERED TERMS

City Attorney Slawter gave a brief report to the Council relative to four-year staggered terms. He said a public hearing would be required.

Mayor Martin said that according to the 1991 edition of Form of Government of North Carolina Cities, more North Carolina city councils have staggered four-year terms than any other term of office. Of the state's 510 cities, 258 have staggered four-year terms; the next most common term of office is the two-year term, which 214 cities have. Only 26 have unstaggered four-year terms, and 12 have "other."

He said that of the 22 cities with populations over 25,000, 11 have staggered four-year terms, eight have two-year terms, and three have unstaggered four-year terms. He then read a breakdown of staggered four-year, two-year, and four-year unstaggered.

It was the consensus of Council to research Council's salaries when the terms are for 4 years.

Vice-Mayor Peterson said that after the Charter is amended regarding four-year staggered terms, he would pursue a change to non-partisan election and term limitations.

City Attorney Slawter said that Council can amend the Charter regarding non-partisan elections, however, only the legislature can amend the term limits.

DISCUSSION RELATIVE TO BILTMORE DAIRY FARMS AGREEMENT

Councilwoman Sitnick said that she just became aware of a memorandum dated May 3, 1994, regarding the Biltmore Dairy Farms agreement and stated several concerns. She noted, however, that the agreement was not signed.

It was the consensus of Council for the City Attorney to obtain the signed copy of the agreement to see if any of Councilwoman Sitnick's concerns had been addressed prior to approval and signing.

Councilwoman Field moved to recess the meeting and reconvene at 7:00 p.m. on Tuesday, June 28, 1994, at Shiloh Recreation Center. This motion was seconded by Councilman McClure and carried unanimously.

Tuesday, June 28, 1994
Community Meeting - 7:00 p.m.
Shiloh Recreation Center

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Deputy City Clerk Maggie Burleson

Absent: None

Mr. Washington, President of the Shiloh Resident's Association, thanked Council for coming and then introduced members of the Association who raised the following topics which were addressed by Council, City staff and others present: (1) the Habitat for Humanity Project (Caribou Heights Subdivision) - concerns were that it was going to be built in what is already swampland, flooding of the area due to stormwater run-off problems, inadequate sewer system and no sidewalks in the area; (2) denial of CDBG monies in Shiloh; (3) problems in Shiloh area with loitering, drugs and crime; (4) possibility of a Citizens on Patrol program in their area; (5) street maintenance and problems with grass growing in the streets; (6) problems with brush and trash pickup and Shiloh being used as a dumping area by unknown persons; (7) concerns regarding vacant lot cleanup; (8) need for a library, books and bookshelves; (9) need for a pool at the Shiloh Recreation Center; (10) general maintenance work needed on the Center, including electrical and plumbing work; (11) need for computers for the children at the Center; (12) concern that Shiloh residents are not participating or selected for the Job Bank Program, although funding for the program was designated and funded for this purpose by the Buncombe County Drug Commission; (13) inaccessibility by the youth of Shiloh of the Job Bank Program office being located on Wall Street in Asheville; (14) request that grants to the Shiloh community be administered by people in the community; (15) concern that money allocated for an Assistant position at the Shiloh Recreation Center went to another recreation center; and (16) questions about illegal parking.

The following petition was read and presented to Council:

"WE, the residents of the Shiloh Community and members of the Shiloh Resident's Association, respectfully petition the Asheville Planning and Zoning Commission and The Asheville City Council to

postpone final approval of the plat for Caribou Heights Subdivision to be located off Caribou Road for the following reasons: (1) disruption of normal traffic patterns through Wyatt and Caribou Roads due to the construction of sewage and drainage facilities and development-related construction; (2) overflow of traffic onto Caribou Road which is presently an unmarked, two-lane road that is shared with employees of major industrial facilities adjacent to the Shiloh community; (3) a 32 lot single-family subdivision on 12.26 acres will conceivably result in approximately 128 additional residents (an average of four persons per unit) and 64 additional cars (an average of two cars per unit); (4) substandard infrastructure to support additional houses and residents (eg., sewage, drainage, potential health hazards due to water-saturated land, trash collection, and storm water run-off); (5) the expected future deterioration of the Habitat units as mildew and structural problems become evident because of existing quagmire conditions; and (6) a fair representation of tax-paying, registered and voting property owners were not notified of the proposed development and were not given the opportunity to address these issues and offer significant input into the physical arrangement of the proposed development. This denied constructive communication between Habitat for Humanity and area residents to peacefully co-exist.

The names below confirm these reasons to be valid. We demand cancellation of the final decision for Caribou Heights Subdivision pending further evaluation and study so that the Shiloh Community will maintain autonomy as a residential community of hard working home-owning tax-payers with long-established community ties."

Planning Director Julia Cogburn explained the subdivision process and that City Council would be approving the final plat for the Caribou Heights Subdivision.

Mayor Martin stated how pleased he was to see community participation from such a large, organized group as the Shiloh Resident's Association.

Councilman McClure suggested applying for different vacancies on boards and commissions also might help the Shiloh community to become more involved. He did, however, understand that many meetings were held during the day thus limiting the number of people available to serve on these boards.

Councilman Watts stated that he too was pleased with the large group who braved the stormy weather to come to the meeting. He felt that when people work as a group, many improvements can be made to better a community.

Councilwoman Field moved to recess the meeting and reconvene at 4:00 p.m. on Thursday, June 30, 1994, in the Council Conference Room on the Second Floor of the City Hall Building. Council will be discussing the City Manager selection process and that the meeting will be an executive session meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

William F. Burnett Jr.
CITY CLERK

MAYOR

Thursday - June 30, 1994 - 4:00 p.m.

Continuation of Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Herbert J. Watts; Interim City Manager William B. Farris, Assistant City Attorney Patsy Brison; and Deputy City Clerk Magdalen Burleson

Absent: Councilman Joseph Carr Swicegood

Mayor Martin called the meeting to order stating that the sole purpose of the meeting was to discuss the position of City Manager. He stated that this is a continuation of the meeting started on Tuesday, June 28, 1994.

Vice-Mayor Peterson moved to go into executive session. This motion was seconded by Councilman Watts carried unanimously.

After coming out of executive session, Vice-Mayor Peterson moved to adjourn the meeting. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin adjourned the meeting at 4:45 p.m.

CITY CLERK

MAYOR

Tuesday - July 19, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-132 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JAMES HYATT JR.

City Manager Farris read the resolution stating that James Hyatt Jr. has been an employee for 19 years and has requested retirement from his position as Construction Inspector. He expressed City Council's appreciation to James for his service to the City of Asheville and its citizens.

Councilwoman Field moved for the adoption of Resolution No. 94-132. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 393

B. RESOLUTION NO. 94-133- RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE BETTY HYATT

City Manager Farris read the resolution stating that Betty Hyatt has been an employee for 26 years and has requested retirement from her position as Customer Services Superintendent. He expressed City Council's appreciation to Betty for her service to the City of Asheville and its citizens.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-133. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 394

II. PUBLIC HEARINGS:

A. PUBLIC HEARING DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH 35 OAK PARK ROAD, ASHEVILLE, NORTH CAROLINA

ORDINANCE NO. 2124 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH 35 OAK PARK ROAD, ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:08 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Safety, said that inspection revealed that the dwelling has a structurally unsound roof, walls and floors that have been damaged by fire, damaged heating, electrical and plumbing systems, and is unfit for human habitation.

A resident at 31 Oak Park Road spoke in support of the demolition and felt that the other two houses on that property needed to be demolished too.

Mr. Ed Wright, 11 Westview Road, requested that the demolition process be started to demolish 9 Westview Road.

Mr. Paul Miller, 27 Oak Park Road, urged Council to demolish the structure.

City Manager Farris said that the demolition process to demolish the other two structures at 31 Oak Park Road would be started.

Mayor Martin closed the public hearing at 4:14 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2124. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2124 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 259

B. PUBLIC HEARING TO ANNEX A NONCONTIGUOUS AREA ON GLENN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY

ORDINANCE NO. 2125 - AN ORDINANCE ANNEXING A NONCONTIGUOUS AREA ON GLENN BRIDGE ROAD KNOWN AS THE RANDY WARN PROPERTY

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Joyce, Senior Planner, said that on May 23, 1994, the City received a signed petition from Randy and Cathy Warn requesting annexation of their property. Mr. and Mrs. Warn are building a restaurant on the site (Cafe Glenn Bridge) and wish to obtain an ABC license.

She then briefed the Council on the report of plans for the area.

Mr. Ralph Bishop felt the City should not annex property just to allow them to sell alcohol.

Mayor Martin closed the public hearing at 4:22 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2125. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2125 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 261

C. PUBLIC HEARING TO CLOSE HENRY STREET AND AN UNNAMED ALLEY OFF GUDGER STREET

RESOLUTION NO. 94-134 - RESOLUTION TO CLOSE HENRY STREET AND AN UNNAMED ALLEY OFF GUDGER STREET

Mayor Martin opened the public hearing at 4:23 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said that a petition has been filed by Elizabeth Graham and others requesting Henry Street and an unnamed alley off Gudger Street be permanently closed to public use. These closing will not deny any property owners public access to their property.

Mayor Martin closed the public hearing at 4:24 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-134. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 395

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF RESOLUTION TO CLOSE THE NORTHERNMOST 170 FEET OF SKYVIEW PLACE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Martin said that the public hearing on this matter was held on June 21, 1994, and the matter continued until this date in order to look at other options available for the Suttons.

City Manager Farris reported that the entrance to Skyview Place is in a turn on Town Mountain Road which results in a sight distance of approximately 75 feet along Town Mountain Road. This is barely adequate at the posted speed limit of 35 mph. Experience shows the speed limit is exceeded by the majority of drivers coming down the mountain which results in a need to enter Skyview Place rapidly. Skyview Place is a narrow one lane road which curves to the right around an outcrop as the road is entered. In addition, to make the sight distance problem greater, the road drops approximately 4 feet as the area is entered making it very difficult to see an exiting car.

He said the stabilization project proposed by Mr. Sutton could be effected by remaining on the north side of Skyview Place, but not using

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wooden railroad ties. The problem stems from storm water drainage off of Town Mountain Road using a natural swale to drain off the mountain. At the present time the house does not appear to be affected by the erosion, however, without some corrective action, the erosion could extend to the house. Some diversion of the drainage from uphill must be accomplished in order for this not to happen.

He said there are two single family units and two apartment complexes which are served by this road. One apartment complex has 6 units and the other has 8 units. Blocking Skyview Place at the Sutton residence would eliminate access to the area from the Cherokee Road area. The road cannot be relocated because of the terrain problems. The hill is too steep for a new road to be constructed which would allow for safe passage of vehicular traffic.

He said an option would be to re-grade Skyview Place near the intersection with Sunset to see if the City can create a 90 degree intersection at that point. He said that he would check on the feasibility of this option and the costs associated with it and present the report to Council at their next meeting on August 9, 1994.

He stated that even if the portion of the road were closed, they still will have a tremendous water runoff problem down Town Mountain Road and therefore, the City will contact the NC DOT, through our local Board of Transportation, to see if they can make some improvements on Town Mountain Road.

City Attorney Slawter said that as a result of some research conducted, it appears that some of the property owners on Skyview Place have deeded rights-of-way to cross the Sutton's property.

Mr. Steve Sutton pleaded with Council to go ahead and close the road and he would deal with the deeded rights-of-way issue.

City Manager Farris said that he would look into the possibility of the City doing a drainage improvement project in that area.

Mr. Bob Tucker, owner of an apartment building on Skyview Place, spoke in opposition to the closing of the portion of Skyview Place. He did ask, however, that if it were closed, would be City put in a cul-de-sac at that end.

Councilman Watts moved to continue this matter until August 9, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-135 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER AND RELATED OF THE CITY OF ASHEVILLE TO PROVIDE FOR A FOUR-YEAR TERM FOR THE MAYOR AND FOUR-YEAR STAGGERED TERMS FOR THE COUNCIL MEMBERS AND CALLING FOR A PUBLIC HEARING ON AUGUST 23, 1994

Mayor Martin said that N. C. Gen. Stat. sec. 160A-101 provides that any city may change various aspects regarding its form of government, including the terms of office of members of the city council. Section 6 of the Charter and Section 1 of the Related Laws of

the City of Asheville now provide that the term of the Mayor and Members of City Council shall be two years. This resolution states that the City Council intends to consider an ordinance amending the Charter and Related Laws of the City of Asheville to provide for a four-year term for the Mayor and four-year staggered terms for the Council Members, so that all of the terms do not expire in the same year.

In order to begin the staggered terms, the three top vote-getters for Council Members in the 1995 election will serve a term of four years and the other three Council Members elected in the 1995 election will serve a term of two years. As of the 1997 election and thereafter, three Council Members would be elected for four-year terms every two years. The Mayor's term of office would change to four years with the 1995 election.

He felt the City needed continuous representation on Council. Of the state's 510 cities, 258 have staggered four-year terms. Of the 22 cities with populations over 25,000, 11 have staggered four-year staggered terms.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved to adopt Resolution No. 94-135 setting a public hearing on this matter for August 23, 1994. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Swicegood voting "no".

As a result of Mr. Ralph Bishop wanting to comment on this issue at this time, Councilman McClure said that his voting in favor of setting the public hearing is in no way committing his support of the issue. In fact, he said he has serious concerns regarding the four-year terms.

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B. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AND RELATED DOCUMENTS BY AND BETWEEN THE CITY OF ASHEVILLE AND ORKAND CORPORATION FOR SPACE IN THE WALL STREET PARKING DECK

At the request of City Attorney Slawter, Vice-Mayor Peterson moved this matter until August 9, 1994. This motion was seconded by Councilwoman Field and carried unanimously.

C. RESOLUTION AUTHORIZING THE EXECUTION OF AN ACCESS AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND EXXON CORPORATION FOR CITY-OWNED PROPERTY ON AIRPORT ROAD

City Attorney Slawter said that the City of Asheville, as owner of property on Airport Road, leased property to Exxon Corporation for a service station, beginning on July 30, 1964. The lease expires on July 31, 1994.

The service station on that site has been closed for a while. There remain, however, some underground storage tanks which need to be investigated to determine whether or not any remediation efforts will be required of Exxon Corporation by governmental environmental agencies.

As any investigation and/or remediation which may be required would extend beyond the expiration date of the lease, Exxon Corporation

has proposed an access agreement wherein they would pay to the City of Asheville a monthly payment which is to be negotiated between the parties for continued access to the site in order to perform any investigations and/or remediations required by governmental environmental agencies.

Negotiations with Exxon Corporation since May still has not brought about a satisfactory access agreement. Therefore, Councilman Swicegood moved to institute a lawsuit against Exxon Corporation to compel them to clean up the site. This motion was seconded by Councilwoman Sitnick and carried unanimously.

The City Attorney pointed out to the Council that any benefit to be derived from the future rental of the former Exxon site will in all likelihood go to the Airport Authority and he therefore questioned whether the City would want to incur the expense of the lawsuit. The Council instructed Councilman McClure to inquire of the Airport Authority whether it will agree to reimburse the City for any legal expenses incurred. Councilman McClure will do so and report back to the Council.

D. RESOLUTION NO. 94-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RESPOND TO A REQUEST BY THE N.C. DEPARTMENT OF TRANSPORTATION REGARDING CITY-OWNED PROPERTY AT BROADWAY AVENUE AND CATAWBA STREET

City Manager Farris said that this resolution fulfills a request from the N.C. Department of Transportation regarding the use of City-owned property and the Broadway Avenue Widening Project.

The property is located at the intersection of Broadway Avenue and Catawba Street. Three tracts were given to the City in 1966 by the S.B. Penick and Company. The deed stated that the land was to be used "for exclusively public purposes." The City accepted the property by resolution on August 11, 1966, "for public purposes, and particularly for park and recreational use."

For a number of years, the property has been used as a community mulch pile on the north side of Catawba. The tracts on the south side of Catawba are not presently being used, however, some of it is maintained by the City and does provide some open space along Glenn's Creek.

A small portion of this property is needed for the widening project. Section 4 (f) of the U.S. Department of Transportation Act of 1966 restricts federally funded projects from taking or using publicly owned land from a public park or recreation area if the public park or recreation area is of local significance as determined by the local official or officials having jurisdiction over the property.

The significance of this property has been reviewed by the Asheville Planning Department, the Asheville Parks and Recreation Department and the Tree and Greenway Commission. All have expressed concern that the property not be lost for potential greenway development but there was agreement that any future plans for park and recreational uses in this area would not be affected by the small portion needed for widening.

The effect of not allowing the use of this property for public right-of-way will mean the redesign of that portion of the project to the other side of Broadway. This will mean additional right-of-way

purchase and/or condemnation procedures as well as the physical redesign. NC DOT has said that this could take up to a year. There has been discussion with a private engineering firm that has worked on many NC DOT projects (without mentioning the specifics of which project) and they confirmed that even a small redesign can be a lengthy process of up to a year.

In summary, after reviewing this request, it has been determined that there is not presently a public park or recreation area on this property, nor is there a city greenway plan on record indicating such. The right-of-way needs by NC DOT takes only a small portion of the property and does not adversely affect future public uses.

Councilwoman Sitnick said that from a historical prospective, it's clear the Penicks donated this property to the City for the express purpose of park-like use and while there is no structured park on the property, she feels that it serves a a public purpose from a visual point of view. She felt that NC DOT knew that this property, however small the portion that was initially needed, was going to be part of their widening project and perhaps from the outset could have designed the project to include the right-of-way on the other side of the road. She felt it was unfair for them to say now that it could take re-design and up to a year to have to go to the other side of the road. It holds the City hostage to turning over that small piece of land that they need for their widening project. She said that aside from the fact that she is opposed to the 5 lane widening of Broadway and aside from the fact that she doesn't think it serves the City, she is opposed to her State tax dollars being used for a road that is unnecessary. If one were to ride down Broadway and look at the Penick property, it's really quite beautiful and unique and it doesn't need any work or additional funding to make it a park-like place. She was vehemently opposed to turning over that portion of property for NC DOT to pave like they pave everything else. She felt it's time for City taxpayers to express their feelings about how they want their taxes used and this is a poor use of our tax dollars.

City Manager Farris corrected his earlier comments by saying that Council has already authorized the transfer of this property at the end of the Broadway widening discussions and NC DOT paid the City $7,900, which was the appraised value.

Councilwoman Sitnick said that, regardless of the size of the area, if the City is to honor the wishes of the citizens of this City, especially those who are generous enough to donate their personal property for the betterment of the City for the use of all taxpayers, then she felt it dishonors and violates the wishes of those people who have specifically designated their property as a contribution to be kept in perpetuity as a park or for recreational use to become a roadway. Perhaps this will discourage future donations to the City.

Upon inquiry of Vice-Mayor Peterson about the City's liability in this matter, City Attorney Slawter felt that NC DOT could take this property by suit without any agreement on the part of the City. He said the $7,900 which NC DOT has paid to the City was the appraised value of the property which is all that the City is entitled to if the City was to go to Court. In addition, the City would have legal expenses in a court action that are saved by the settlement. If there is anything about directives in the deed that Council feels is being violated to the extent of dishonoring what the person donated to the City, the Council could designate the $7,900 for recreational purposes which would have

the same impact as the initial gift that was made by Mr. Penick. He did state, however, that the City cannot stop NC DOT from taking this piece of the property.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-136. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Vice-Mayor Peterson and Councilwoman Sitnick voting "no".

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E. FINAL PLAT APPROVAL OF ADAMSWOOD SUBDIVISION

Mr. Gerald Green said that the proposed Adamswood Subdivision is to be located off of Adams Hill Road in the City's extraterritorial jurisdiction. The Planning and Zoning Commission reviewed the preliminary plat at their September 1, 1993, meeting and recommended approval with the condition that availability of services be approved by the Buncombe County Health Department and the extension of the six inch water line to the site be completed prior to the final plat approval, both of which have been met.

The proposed subdivision will consist of 29 lots on approximately 22.5 acres. Access to five lots may be provided from Adams Hill Road. Access to the remaining lots will be provided from two new streets which will be built to state standards and dedicated to NC DOT. Several neighboring property owners requested additional information and one individual expressed opposition to the project.

Upon inquiry of Councilwoman Sitnick about stormwater control, Mr. Green said that there are some culverts, but no controls to retain or detain stormwater. Even though the subdivision is outside the City limits and it doesn't have to comply with the stormwater runoff ordinance, natural measures are being taken.

Councilwoman Field moved to approve the final plat for Adamswood Subdivision. This motion was seconded by Councilman Watts and carried unanimously.

F. ORDINANCE NO. 2126 - AN ORDINANCE AMENDING CHAPTER 10, ARTICLE IV OF THE CODE OF ORDINANCES REGULATING NOISE

City Attorney Slawter said that this ordinance amends Chapter 10, Article IV of the Code of Ordinances which amendment is in response to the Honorable Earl Fowler's recent ruling regarding portions of the City's noise ordinance regarding barking dogs.

Councilwoman Sitnick related a personal experience with barking dogs and asked if this ordinance amendment will be able to create a solution to those people in our community who are on a daily basis affected by barking dogs, etc., without them having to hire attorneys and going to the expense of going to court. And, who will the burden of proof be on, the affected party or the person causing the problem.

City Attorney Slawter felt that this ordinance will help, but is not a cure-all. The burden of proof is never on the person being

charged, but is on the affected party - by either calling the police or taking out a warrant.

Upon inquiry of Councilman McClure, City Attorney Slawter said that the penalty is a misdemeanor, punishable by up to 30 days in jail and a fine.

City Attorney Slawter answered questions from Council as they related to dangerous animals.

Councilman Watts was glad that the City was trying to strengthen it's ordinance, but felt that no matter how much is done, the City will continually have this problem of barking dogs.

Upon inquiry of Councilwoman Sitnick about the City recovering costs to cover the number of times a police officer has to be sent out to one house, City Attorney Slawter explained that any money collected is paid into the Court and not disbursed to the City.

Mr. Steve Becker briefed the Council on his two attempts in Court regarding a barking dog - which both times he lost and now is being sued by the owner of the barking dog. He has since solved the barking dog problem - he moved to the County.

City Attorney Slawter answered various questions as they related to a Greenville, North Carolina, ordinance in which a decibel meter is used by the police. An expense which Greenville had was the hiring of someone who had the expertise in writing an ordinance in which decibel levels are used. Additional expense might also be required to have that person testify in court to defend the decibel levels.

Councilwoman Field felt that even though this ordinance does strengthen our current ordinance, Council should look into the Greenville ordinance a little further. She said perhaps some standards could be set to allow our Police Department to make some decisions on the spot and even cite someone. She felt that not all cases should have to go to court.

Councilwoman Sitnick instructed the City to do everything it can to make the public aware of this stronger ordinance. She asked the Council to immediately review the Greenville ordinance and strengthen even more our ordinance to protect our citizens.

Ms. Carrie Farmer, 36 High Court, related an incident about a barking dog and wanted Council to "put some real teeth" into the ordinance.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2126. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2126 passed on its first and final reading.

G. ORDINANCE NO. 2127 - ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES REGULATING ANIMALS AND FOWL

City Attorney Slawter said this ordinance amends Chapter 3 of the Code of Ordinances regulating animals and fowl. The amendments are being made as to be consistent with the amendments to the noise ordinance regarding barking dogs.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2127. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2127 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 267

H. ORDINANCE NO. 2128 - ORDINANCE PROVIDING FOR A LISTING OF HISTORIC LANDMARKS IN THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

City Attorney Slawter said that City Council has previously designated historic landmarks in the City of Asheville. The Buncombe County Board of Commissioners previously designated as a historic landmark a building and property which is now located within the corporate limits of the City of Asheville. It is desirable to include a listing of those historic landmarks in the Code of Ordinances.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2128. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2128 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 268

I. ORDINANCE NO. 2129 - AN ORDINANCE AMENDING SECTION 2-61 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE (ASHEVILLE AREA CIVIC CENTER COMMISSION MEMBERSHIP)

City Manager Farris said that pursuant to City Council's request, this ordinance will expand the membership of the Asheville Area Civic Center Commission from nine to eleven members.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2129. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2129 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 271

J. **ORDINANCE NO. 2130 - ORDINANCE AMENDING ARTICLE IV OF CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO ELIMINATE THE ADVISORY BOARD FOR THE HORSE DRAWN CARRIAGE ORDINANCE**

City Manager Farris said that on June 15, 1993, the Asheville City Council adopted Ordinance No. 2032 which set forth regulations for the operation of horse-drawn carriages. Section 18-120 of the Code, which is a codification of a section of Ordinance No. 2032, established an advisory board for implementation of the horse-drawn carriage ordinance. The City Council has determined that appointment of members to the advisory board is not necessary at this time and that the board should be eliminated at this time.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2130. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2130 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 273

K. **ORDINANCE NO. 2131 - BUDGET AMENDMENT RELATIVE TO 16 BUSES FOR THE ASHEVILLE TRANSIT AUTHORITY**

City Manager Farris said that this budget amendment, in the amount of $3,119,700, is to appropriate the state and federal share towards the capital acquisition of Asheville Transit Authority's 16 new buses.

Councilwoman Sitnick expressed her disappointment that a couple of months ago she asked if these new 16 buses were state of the art buses and was told they were. It has now come to her attention that these buses do not have the lowest pollution control standards which are available today.

Mr. Carl Owenby, Urban Planner, said that the engines for the new buses have been EPA approved and it was very cost prohibitive to have the compressed fuel engines which Councilwoman Sitnick spoke about.

Councilwoman Sitnick felt that Council should, of course, think about the cost issue but still look toward the future of protecting its citizens and not continue to contribute to the pollution in our area.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2131. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2131 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 274

L. ORDINANCE NO. 2132 - BUDGET AMENDMENT TO APPROPRIATE TWENTIETH YEAR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

City Manager Farris said that this budget amendment, in the amount of $1,675,000 is to appropriate twentieth year CDBG funds. The City has received approval from HUD for the twentieth year CDBG program in the amount of $1,630,000. Program income is estimated to be $45,000. The total budget is therefore $1,675,000. This funding represents an increase of 10% from the previous year which was $1,481,000. Allocation of the twentieth year funding was approved by City Council on May 3, 1994. HUD declared the Minority Business Program not eligible for CDBG funding. This budget therefore reflects an increase of $11,500 for the Hillcrest Enrichment Program and $62,854 additional funds for the City-wide Rehab Program. The Minority Business Program is not included in this budget.

The following is a breakdown of the funding allocation:

Affordable Housing Coalition	$ 45,500
HOPE-1 Implementation	142,000
Hill/Cherry (Head of Montford) area	144,000
City Wide Housing Rehab	446,000
Neighborhood Housing Services	110,378
Mountain Housing Opportunities-Homeownership	120,000
Home Site Acquisition	20,000
Habitat for Humanity - Land Acquisition	175,000
South Pack Square Redevelopment	110,000
Trinity Place Shelter	4,000
Hillcrest Enrichment Program	64,239
Vanderbilt Apartments	38,258
Asheville-Buncombe Community Relations Council	18,380
Erskine Avenue Playground	25,000
C.D. Planning	30,000
C.D. Administration	181,391
Total Budget	$1,675,000

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2132. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2132 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 276

V. CONSENT:

City Attorney Slawter asked that the resolution directing the City Clerk to investigate a petition to annex an area known as the Veterans Administration Medical Center be deleted from the Consent Agenda as a result of earlier discussions in Pre-Council.

City Manager Farris answered Councilman McClure's questions as they related to using volunteers instead of security guards for school crossing guards.

Mr. Ralph Bishop commented on his inability to obtain a certified copy of minutes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON JUNE 21, JUNE 28 AND JUNE 30, 1994

B. RESOLUTION NO. 94-137 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: The terms of Randee Goodstadt and Pam Nickless expired on July 1, 1994. This resolution will reappoint Pam Nickless and appoint Shirley Early, to three year terms respectfully, terms to expire July 1, 1997. All terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 399

C. RESOLUTION NO 94-138 - RESOLUTION APPOINTING AN ALTERNATE MEMBER TO THE BOARD OF ADJUSTMENT

Summary: Pat Ochsenreiter has resigned as an alternate member to the Board of Adjustment. This resolution will appoint Judy Long to fill the unexpired term of Pat Ochsenreiter, term to expire January 21, 1997, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 400

E. RESOLUTION NO. 94-139 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

Summary: The terms of Nelson Ferg and Otis Michael expired on June 30, 1994. This resolution will reappoint Otis Michael and appoint Charles D. Parker, to four year terms respectfully, terms to expire June 30, 1998. All terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 401

F. RESOLUTION NO. 94-140 - RESOLUTION APPOINTING MEMBERS TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: The terms of Douglas Franklin, John Henderson and Phyllis Martin expire on July 19, 1994. This resolution will reappoint Douglas Franklin and appoint James Lewis to two year terms respectfully, terms to expire July 19, 1996. Both terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 402

G. RESOLUTION NO. 94-141 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: The terms of B. Allan Culberson Jr., Joe Eblen, Rankin Hipp and Hayes Martin expired on June 30, 1994. This resolution will reappoint Hayes Martin and appoint Nancy Williams, Carolyn Ketchum and Joyce Dorr to three year terms respectfully, terms to expire June 30, 1997. It will also appoint Tom Muncy and Keith Green to two year terms respectfully, terms to expire on June 30, 1996. All terms are until their successors have been duly appointed and qualified.

RESOLUTION BOOK NO. 21 - PAGE 403

H. **RESOLUTION NO. 94-142 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF ASHEVILLE, A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-17**

Summary: This resolution will authorize acceptance of a grant agreement, in the amount of $188,946, from the FAA to rehabilitate medium intensity taxiway lights and update the Master Plan (airfield pavement evaluation).

RESOLUTION BOOK NO. 21 - PAGE 404

I. **RESOLUTION NO. 94-143 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE CONTRACT THE DAP SECURITY INC. FOR SCHOOL CROSSING GUARDS**

Summary: For the past several years, DAP Security has contracted for this service and has a history of being very effective with minimal complaints.

For the school year 1993-94, this contract with submitted to every security service in the Asheville area for proposals. This was done through advertisement in the local media as well as by sending each provider a written request for proposal. DAP Security was the only company that submitted a proposal. Other providers refrained due to the complexity of providing 21 guards for an hour during the morning and an hour in the afternoon, as the proposal required.

Based upon the probability of having a competitive bid for this service and due to the satisfactory level of service experienced with DAP Security in the past, City staff recommends that the City refrain from advertising for competitive proposal and accept the contract as proposed by DAP Security.

RESOLUTION BOOK NO. 21 - PAGE 405

J. **RESOLUTION NO. 94-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE SKYLAND VOLUNTEER FIRE DEPARTMENT TO PROVIDE FIRE PROTECTION SERVICE TO THE NEWLY ANNEXED NON-CONTIGUOUS AREA LOCATED AT 3 GLENN BRIDGE ROAD (RANDY WARN PROPERTY)**

Summary: This resolution will authorize the City Manager to execute a contract for fire protection services to the proposed non-contiguous property to be annexed at 3 Glenn Bridge Road (Randy Warn property). The City has a policy of contracting with a volunteer fire department to provide fire protection services to those non-contiguous annexation areas where the Asheville Fire Department feels that the volunteer fire department can provide more efficient fire protection.

RESOLUTION BOOK NO. 21 - PAGE 406

K. **MOTION SETTING A PUBLIC HEARING ON AUGUST 9, 1994, RELATIVE TO FILING AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION**

Vice-Mayor Peterson moved the adoption of the consent agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on July 6, 1994:

PUBLIC HOUSING PROJECT ON VIRGINIA AVENUE

Mr. Green stated that at the Planning and Zoning Commission's meeting on July 6, 1994, the Commission voted 4-3 to recommend approval of the proposed 28 unit public housing project to be located on Virginia Avenue at Brotherton Avenue. The following four conditions were attached to the approval:

1. The un-opened rights-of-way must be closed prior to the issuance of building permit(s);
2. Driveway permits must be obtained for the connections of the drives;
3. Sidewalks or pedestrian paths shall be provided within the development to connect each building with other buildings in the development and to provide a connection to the street; and
4. Incorporate recommendations of the traffic impact analysis as they apply to the development.

The Commission also recommended denial of the request for a reduction in the number of required parking spaces, recommending that the development provide two parking spaces per unit.

This project generated a great deal of interest, with approximately 100 people attending the meeting to voice opposition to the proposed development.

The Commission recommends the City Council schedule a public hearing on this matter.

Councilwoman Sitnick moved to set a public hearing on this matter for August 23, 1994, at 7:00 p.m. in the Civic Center Banquet Room. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick urged all of Council to personally look at the area prior to the public hearing and asked staff to make extra efforts in advertising and contacting the public on this particular topic.

Councilwoman Field said that whether or not this project is developed, the City should look at removing parking on one side of Virginia Avenue due to the area being very congested.

Vice-Mayor Peterson favored individual homes instead of housing projects.

WNC AGRICULTURAL CENTER EXPANSION

Mr. Green stated that at the Planning and Zoning Commission's meeting on July 6, 1994, the Commission unanimously recommended approval of the WNC Agricultural Center expansion with four conditions as follows:

1. Confirmation of the water availability;
2. City Council approval of the variance request in order to construct grass/gravel parking areas;
3. Compliance with the landscape ordinance in regard to parking lot trees; and
4. Compliance with the watershed protection requirements.

The Commission unanimously recommended approval of the variance request in order to construct grass/gravel parking areas. They unanimously recommended denial of the variance request to waive the required parking lot trees.

Councilwoman Field moved to set a public hearing on this matter for August 9, 1994, to consider the variance request. This motion was seconded by Councilwoman Sitnick and carried unanimously.

B. RESOLUTION NO. 94-145 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE LEASE AGREEMENT NO. DTFA06-93-L-12872 WITH THE FEDERAL AVIATION ADMINISTRATION FOR THE SECTOR FIELD OFFICE AT THE ASHEVILLE REGIONAL AIRPORT

City Manager Farris said that this lease will be at the rate of $747.00 a month and it would be to the City's advantage to accept this lease agreement.

Councilman McClure moved for the adoption of Resolution No. 94-145. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 407

C. RESOLUTION NO. 94-146 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING ORDINANCE NO. 1501 WHICH AMENDS THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY OF ASHEVILLE

City Attorney Slawter said that this resolution will set a public hearing on August 23, 1994, at 4:00 p.m. in the Council Chamber of the City Hall Building to consider a proposed amendment to Ordinance No. 1501 which amendment will clarify that the procedure established in N. C. Gen. Stat. sec. 163-111 is determinative of whether a runoff election shall be required in the elections for the Mayor and City Council.

Councilwoman Field moved for the adoption of Resolution No. 94-146. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 408

D. REQUEST REGARDING BRIDGE ON GRAHAM ROAD

Mr. Jim Simmons asked if the City could widen the bridge on Graham Road and explained his request.

City Manager Farris said that he was aware of the situation and he would investigate the request.

E. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop reminded the Council that they took an oath of office to support the Constitution of the United States.

City Attorney Slawter said that newly adopted provisions set forth in N. C. Gen. Stat. sec. 143-318.10 (e) provides that "full and accurate minutes of all official meetings" must be kept, and further provides that "such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings."

Mr. Bishop stated that he did not want a copy of a tape.

F. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of June 11-20, 1994: Steve Sutton (Water), Chris Morgan (Property), James Jay Foreman (Water), Johsephine Flemming (Water), Cindy Hopecraft (Inspections), Jean Moss (Water), Charles Thomason (Parking), Joyce Harrison (Parking), Kerri Adler (Traffic Engineering), Matthew Abbott (Streets), Andre Logan (Sanitation) and Tina Angel (Parking).

He said the following claims were received by the City during the week of June 21-July 8, 1994: Bell South (Water), David Day (Property), Kim Bailey (Water), Lucille Plemmons (Property), John Hilgert (Streets), Malcolm Ingle (Sanitation), Jim Anderson (Streets), Tony Ward (Police), Ben House (Water), Joe Brearley (Streets), Rhonda Weston (Streets) and Jesse Warren (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

G. LAWSUITS

City Manager Farris said that the City was served with a lawsuit on July 18, 1994, as follows: Smith and Moss Auto Sales, Inc., and Bruce E. Moss, Inc. v. City of Asheville (Petition for Writ of Certiorari of Board of Adjustment decision).

He said that this lawsuit has been referred to the appropriate legal council for action.

H. CIVIL SERVICE APPEAL

Councilman McClure moved that the City Attorney be directed to file a lawsuit in Superior Court appealing from the determination by the Civil Service Board in the Clinton Shelton case. This motion was seconded by Councilwoman Field and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:39 p.m.

CITY CLERK

MAYOR

Tuesday - August 2, 1994 - 4:00 p.m.
Council Conference Room - City Hall

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

PEDESTRIAN AND TRANSPORTATION ISSUES

Council discussed pedestrian and transportation issues.

RESOLUTION NO. 94-147 - RESOLUTION TO AUTHORIZE SUBMISSION OF A SUPPORTIVE HOUSING PROGRAM APPLICATION

Mr. Marvin Vierra, Community Development Director, said that Pisgah Legal Services has prepared an application for grant funding from HUD through the Supportive Housing Program on behalf of a consortium of health and human service non-profit agencies serving the homeless. The consortium has requested the City of Asheville to apply for and administer the grant program. The consortium is composed of the following agencies: United Way, Asheville-Buncombe Community Christian Ministry, Salvation Army, Hospitality House, Helpmate, Affordable Housing Coalition, Eliada Home, Flynn Home, Consumer Credit Counseling and Pisgah Legal Services.

The substance of the project consists of establishing a community-based multi-disciplinary assessment team consisting of a Certified Rehabilitation Counselor, a nurse, and a social worker. The team would perform a comprehensive evaluation within ten days of every new admission to a participating shelter and, with the resident, develop an integrated and coordinated service/plan with the objective of achieving within a specified time frame the highest level of independence and self-determination possible for that person or family unit.

With the guidance and support of the assessment team, shelter-based case managers will implement and update the individualized service/care plans of the residents in their facilities.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-147. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 21 - PAGE 410

EXECUTIVE SESSION

At 6:10 p.m., Vice-Mayor Peterson moved to go into executive session to discuss a legal issue. This motion was seconded by Councilwoman Field and carried unanimously.

At 6:17 p.m., Vice-Mayor Peterson moved to come out of executive session. This motion was seconded by Councilwoman Field and carried unanimously.

William S. Wolcott, Jr.
CITY CLERK

MAYOR

Tuesday - August 9, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldrum; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Councilman Joseph Carr Swicegood

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-148 - RESOLUTION IN MEMORY OF REV. LACY T. HAITH

Mayor Martin read the resolution in memory of Rev. Lacy T. Haith and presented it to Mrs. Haith and his family.

Resolution No. 94-148 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 1

B. PROCLAMATION PROCLAIMING AUGUST 11, 1994, AS "ASHEVILLE KIWANIS CLUB DAY"

Mayor Martin proclaimed August 11, 1994, as "Asheville Kiwanis Club Day" in the City of Asheville and presented it to Mr. Vassie Cook, President of the Asheville Kiwanis Club.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

RESOLUTION NO. 94-149 - RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE FEDERAL TRANSIT ADMINISTRATION

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Urban Planner, said that the City of Asheville annually applies for financial assistance under the Section 9 program to aid in transit operations. The Federal Transit's share is $644,130 and the City of Asheville's share, which includes State funds, is $814,870.

Mayor Martin closed the public hearing at 4:16 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-149. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 2

B. PUBLIC HEARING RELATIVE TO VARIANCE REQUEST FOR THE WNC AGRICULTURAL CENTER

Mayor Martin opened the public hearing at 4:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, stated that at the Planning and Zoning Commission's meeting on July 6, 1994, the Commission unanimously recommended approval of the WNC Agricultural Center expansion with four conditions as follows:

1. Confirmation of the water availability;
2. City Council grant a variance to provide for grass parking lots with gravel access aisles instead of paved parking lots, as required by the zoning ordinance;
3. City Council grant a variance in order to waive the 115 required parking lot trees; and
4. Compliance with the watershed protection requirements.

The Commission also recommended that the variance request to provide for grass parking lots be granted and that the variance request to waive the parking lot trees be denied.

He said the condition regarding compliance with the watershed protection requirements has been resolved by the Board of Adjustment and is no longer applicable.

Upon inquiry of Vice-Mayor Peterson of why the developer is requesting a variance to waive the parking lot trees, Mr. Nicholson responded that the developer was worried about the protection of the trees due to the gravel parking lot.

In response to a question by Councilwoman Field about the loss of parking spaces if they put the trees in, Mr. Nicholson said that they would lose some parking spaces, however, the number of spaces required by the zoning ordinance would still be met.

Councilwoman Sitnick said that the Planning and Zoning Commission was very clear in their discussions that the waiving of the parking lot trees should be denied. She stated that there are techniques to protect the trees.

Mr. Mike Calhoun, representative of Vaughn-Melton, consulting engineers for the project, said that they would have no problem in protecting the trees.

Mayor Martin closed the public hearing at 4:24 p.m.

Councilwoman Field moved to approve the variance to provide for grass parking lots with gravel access aisles instead of paved parking lots. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Field moved to deny the variance to waive the requirement for parking lot trees. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Field moved to approve the site plan subject to the confirmation of water availability. This motion was seconded Councilwoman Sitnick and carried unanimously.

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF RESOLUTION TO CLOSE THE NORTHERNMOST 170 FEET OF SKYVIEW PLACE IN THE CITY OF ASHEVILLE, N.C.

Mayor Martin said that the public hearing on this matter was held on June 21, 1994. He said that on July 19, 1994, the matter was again discussed and continued until this date.

City Manager Farris said that the City has no legal authority over the road, particularly the authority to close the road. In addition, he reminded the Council of some research conducted by the Legal Department, which appeared to indicate that some of the property owners on Skyview Place have deeded rights-of-way to cross the Sutton's property.

City Manager Farris reported that the Engineering Department has done a report on the options (as follows):

Closing of Skyview with dead-end - Closing the northwestern end as requested would necessitate the need for construction of a proper cul-de-sac. This cul-de-sac should have a circular area with an asphalt radius of 35 feet for vehicles including garbage collection and fire fighting equipment to turn around. The steep drop off to Sunset Drive along with the short distance between the drive and the corner of the Sutton's house and adjacent house front will only permit construction of a radius of about 15 feet. A 15 feet radius is not adequate for a turn around. Due to this inadequacy and the objection of two other property owners to the closing, the City Engineer did not recommend a closing of this end to be considered further.

Rerouting of Skyview onto Sunset - Rerouting Skyview onto Sunset near the edge of the Sutton property and closing the existing drive in front of their house were considered. Grades for residential streets should not exceed 15%. The street should also have a proper site distance at its intersection for oncoming traffic. The grade would be over 70% and the sight distance would be marginal. Due to this unacceptable grade, the City Engineer did not recommend a rerouting onto Sunset be considered further.

Earthen Fill Bank - The stabilization problem the Suttons are having results from the recent rains and relatively uncompacted fill material in front of their house trying to be held in place by rotting wooden railroad ties. Adding to the problem is storm water drainage coming off Town Mountain Road via a natural swale into a portion of the fill. The Suttons have recently rerouted some of this storm water away from the bank fill. The fill bank appears somewhat unstable at this time and the continued rains are still a concern. The City Engineer recommended the continued temporary closing of Skyview Place at the west end to allow the Suttons a working area to stabilize their bank and also as a safety precaution.

Recommendations - The City Engineer did not recommend a permanent closing of Skyview Place at the northwestern end or a rerouting of Skyview onto Sunset. As a homeowner's private project, the most cost effective solution may be the use of concrete ties as a "crib wall" arranged somewhat similar to the wooden ties now in use which have

lasted over 10 years. Also, the City Engineer recommended the Suttons continue their effort to reroute storm water away from the bank fill. The City Engineer did not recommend a detailed design or calculations to be supplied by City Engineering to the Suttons, as this could involve a future City liability.

Mayor Martin asked if Town Mountain Road were a State road, meaning that the City of Asheville has no jurisdiction over it. City Manager Farris confirmed that to be true.

Councilwoman Field asked if Mr. Farris were suggesting that the City of Asheville participate in the cost of shoring up the Suttons' property. He said that he was not recommending that, but he would be willing to treat this as an emergency situation and put some equipment up there to help the Suttons with the rerouting of the stormwater. He said that the would try to get this accomplished as quickly as possible.

Mr. Sutton said that he understood that the City was saying it would not close the road, but wondered about the reconstruction of the retaining wall and what portion of the road could be closed.

City Manager Farris said the City has no right to close the road and may not have the right to prevent it. He said that question is between Mr. Sutton and the other property owners.

Mr. Sutton asked about his right to close the road and said that before any construction is done, he wanted the City to talk to his attorney. Mayor Martin said that his attorney was welcome to contact the City Attorney for information.

Assistant City Attorney Meldrum said that the question seemed to be whether or not the City has any right to go in and make any changes to the road. She explained that it is her understanding that the City couldn't find evidence of its acceptance of Skyview Place and absent that, the City has no responsibility regarding the maintenance, correction nor the closing of the road. It is a deeded right-of-way across the platted lots which the other abutting property owners have an interest in and Mr. Sutton would need to make an agreement with them about what changes would be made, if any.

Councilwoman Field said that she would talk with Gordon Myers on the local Board of Transportation to see what kind of improvements NC DOT can make on Town Mountain Road.

There being no motion to close that portion of the road, the resolution died.

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR PHASE 3 OF DEVONSHIRE SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that Beverly-Grant Inc. has submitted the final plat for Phase 3 of the Devonshire Subdivision, located on Hendersonville Road south of the Blue Ridge Parkway. This phase of the 89 lot subdivision will contain 12 lots which will be assessed by approximately 640 feet of new street.

The plat has been reviewed by the Planning, Legal, and Public Works staff for compliance with the City's requirements. The preliminary plat for the subdivision was approved by the Planning & Zoning Commission in March 1992 and this approval has been reaffirmed annually.

Councilman McClure moved to approve the final plat for Phase 3 of Devonshire Subdivision. This motion was seconded by Councilman Watts and carried unanimously.

B. RESOLUTION NO. 94-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AND RELATED DOCUMENTS BY AND BETWEEN THE CITY OF ASHEVILLE AND ORKAND CORPORATION FOR SPACE IN THE WALL STREET PARKING DECK

Assistant City Attorney Meldrum said that on September 1, 1989, the City leased to Wall Street Limited Partnership a portion of the lower level of the Wall Street Parking Garage which was designed for use as retail space or for other alternate uses as approved by the City Manager. That lease, which was amended on October 30, 1991, commenced on September 1, 1989, and ends on August 31, 1999, unless terminated earlier.

One-half of this space has been formerly subleased by Wall Street Limited Partnership to Stewart Cowles for a climbing shop and school. Another tenant is now interested in the remaining space. That tenant is The Orkand Corporation who will use the space as an independent photographic lab for the National Climatic Data Center.

The Orkand Corporation desires a ten-year lease, commencing on September 1, 1994. The City of Asheville would need to approve the sublease of the space from Wall Street Limited Partnership for the remainder of the term of its lease (until August 31, 1999). As the proposed ten-year term would extend after the current term of the Wall Street Limited Partnership lease, the City would need to approve the execution of a separate lease with The Orkand Corporation for a term commencing on September 1, 1999, and ending on September 30, 2003.

Upon inquiry of Councilman McClure about termination of the lease for either privatization or whatever, Assistant City Attorney Meldrum said that this type of lease would require a Memorandum of Lease to be recorded at the Courthouse and if the City sold that property, the subsequent property owner would have to take it over subject to that lease. She felt that part of the negotiations about the sale of the property would include the value of the lease as well as the value of the rest of the real estate.

Councilman McClure questioned what was the City's advantage to going to a 10 year term. He felt it might be limiting on both parts and suggested a five year term with renewal options. Ms. Meldrum responded by stating what Orkand's proposal was.

City Manager Farris noted that one condition of the lease is that they upfit the interior because this is currently only "shell" space and they wanted to be able to amortize their improvements. He said that the lease requires them to put in a minimum to $60,000, which will include heating, air conditioning, restrooms, interior walls, carpeting, ceiling tiles, etc.

Vice-Mayor Peterson also felt 10 years was a long time for this lease and suggested a 5 year lease with the remainder to be negotiated.

Ms. Meldrum stated that the City can propose Vice-Mayor Peterson's suggestion. She then quoted the termination provisions in the lease as questioned earlier by Councilman McClure.

Councilman McClure suggested language to address the situation if the City no longer takes responsibility for those parking decks by

providing that the lease would need to be renegotiated at that time. Ms. Meldrum reminded Council that the Memorandum of Lease would be recorded so anyone who takes it over by conveyance or contract would take it subject to that existing lease.

City Manager Farris said that since the City is locked into the lease for the five years, perhaps we could propose, rather than the $25.00 annual escalation, an annual escalation of 5%, or have the escalation tied to the Consumer Price Index.

Councilman McClure also asked that the lease include a buy-out clause for both parties for early termination of the lease.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-150, subject to the change in terms of the lease agreement of an escalation clause fixed to the Consumer Price Index, or a minimum amount of increase, whichever is greater, and the buy-out clause for both parties be added. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 4

C. ORDINANCE NO. 2133 - AN ORDINANCE REDUCING THE SPEED ON KEASLER ROAD AND ST. DUNSTANS ROAD TO 20 MPH AND REDUCING THE SPEED ON FULTON STREET AND WOODROW STREET TO 25 MPH

City Manager Farris said that this ordinance will change the speed limit on Keasler Road and St. Dunstans Road to 20 miles per hour and will reduce the speed on Fulton Street and Woodrow Street to 25 miles per hour.

Mr. Rick Crawford, 172 St. Dunstans Road, spoke in support of reducing the speed limit.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2133. This motion was seconded by Councilman McClure.

On a roll call vote of 6-0, Ordinance No. 2133 was adopted on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 278

D. ORDINANCE NO. 2134 - ORDINANCE AMENDING CHAPTER 15A REGARDING STORMWATER REGULATIONS

City Manager Farris said that this ordinance will amend Chapter 15A by adding to the exemptions from its coverage any subdivision which received preliminary plat approval prior to July 1, 1994, the effective date of the stormwater ordinance.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2134. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2134 was adopted on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 279

V. CONSENT:

Mr. Ralph Bishop questioned if the August 2, 1994, meeting was properly advertised. Mayor Martin responded that it was.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON JULY 19 AND AUGUST 2, 1994

B. RESOLUTION NO. 94-151 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SIGN PREAUDIT CERTIFICATES AND EXECUTE CONTRACTS UP TO THE STATUTORY LIMITS REQUIRED FOR FORMAL BIDDING

Summary: This resolution will initiate the process developed by a staff team for centralizing the handling of service contracts in the Purchasing Division. This process will greatly improve the control over as well as streamline the City's contracting procedures.

The process will utilize a new requisition/authorization format. Preaudits will be made in Purchasing through their automated purchasing system that has "on-line" inquiry to expenditure accounts.

RESOLUTION BOOK NO. 22 - PAGE 4

C. RESOLUTION NO. 94-152 - RESOLUTION REQUESTING MSD TO REHABILITATE THE SEWER LINE SERVING NOS. 34, 36, 38, AND 42 AZALEA ROAD

Summary: As part of the MSD Agreement with the City dated November 21, 1989, MSD shall spend up to $200,000 in any one fiscal year for the take over and rehabilitation of private sewer systems. Projects will be addressed by MSD on a first come, first serve basis each year.

The City has received a request from the homeowners of Nos. 34, 36, 38 and 42 Azalea Road that the City make a formal request to MSD for rehabilitation of the collector sewer system serving their homes.

RESOLUTION BOOK NO. 22 - PAGE 5

D. RESOLUTION NO. 94-153 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SERVICE AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND MOTOROLA COMMUNICATIONS AND ELECTRONICS INC.

Summary: This resolution recommends executing an agreement with Motorola Inc. for continuing services on the City's 800 MHz radio communication system. The initial service agreement that has provided coverage to date, was included in the original contract awarded to Motorola in 1990.

New service equipment negotiated with Motorola, covers all fixed and mobile equipment associated with our system, at a cost of $9,906.80 per month. For cost comparison, staff surveyed other agencies with the 800 MHz system to obtain their cost for this service. Their survey included the City of Salisbury, City of High Point and

Charlotte/Mecklenburg. From this survey it was determined that our cost for service is equal to other agencies cost. Also, when compared to our cost for the initial service agreement with Motorola, the new agreement is competitively priced.

RESOLUTION BOOK NO. 22 - PAGE 6

E. RESOLUTION NO. 94-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE SUPPLEMENTAL SCHEDULE ORDERS FOR SOFTWARE LICENSE RENEWAL WITH UNISYS CORPORATION

Summary: This resolution recommends executing agreements with Unisys Corporation to allow continued use of the current hardware and software products for the City's mainframe computers. The initial five year operating software license expired on June 30, 1994, for all of the operating software on the City's Administrative mainframe computer, for nearly all of the operating software on the City's Developmental mainframe computer, and for some of the operating software on the City's Criminal Justice mainframe computer.

The new agreements allow use of the operating software on the City's Administrative and Developmental mainframe computers for three additional years, and use of the operating software on the City's Criminal Justice mainframe computer for one additional year. The reason that the licenses are not recommended for renewal for another five year period is that we may replace the computers before then due to obsolescence of the computer hardware and software. The Criminal Justice mainframe computer may be replaced as soon as 12 to 18 months from now, pending award of bids currently under review.

Unisys Corporation is the sole provider of the operating software. The City is satisfied with the total license renewal cost of $96,724.90, and the associated hardware and software support contracts in the amount of $8,938 per month.

RESOLUTION BOOK NO. 22 - PAGE 7

F. MOTION SETTING A PUBLIC HEARING ON AUGUST 23, 1994, TO DESIGNATE ST. MARY'S EPISCOPAL CHURCH, RECTORY AND GROUNDS LOCATED AT 337 CHARLOTTE STREET AS A LOCAL HISTORIC LANDMARK

G. MOTION TO RESCHEDULE PUBLIC HEARING ON PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES FROM AUGUST 23, 1994, TO SEPTEMBER 20, 1994

H. MOTION SETTING A PUBLIC HEARING FOR AUGUST 23, 1994, FOR THE REVIEW OF THE REVISED CABLE TELEVISION RATE SCHEDULE SUBMITTED BY TCI CABLEVISION OF ASHEVILLE

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

Council asked the City Manager to provide them with information before the August 23 public hearing regarding TCI Cablevision and if their rates are in line with other cities.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Tony Nicholson, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said, in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on August 3, 1994:

Lowe's Addition on South Tunnel Road

Mr. Nicholson said that on August 3, 1994, the Planning and Zoning Commission unanimously recommended approval of the Lowe's addition, with one condition - confirmation of water availability and adequate fire protection. He said that the confirmation of water availability has been received.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. ORDINANCE NO. 2135 - BUDGET AMENDMENT FOR WELLINGTON STREET SIDEWALK

Ms. Vicki Heidinger said that this budget amendment, in the amount of $50,000, sets up the appropriation for the Wellington Street sidewalk project. This project will utilize the existing $50,000 set aside for sidewalks in the current Street and Sidewalk Improvement Plan.

City Manager Farris said that a neighborhood meeting was held to let the property owners know the specifics of the project.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2135. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2135 was adopted on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE

C. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop addressed several questions and comments to the Council as they related to adequate meeting notices and abolishment of State law.

D. COMMENTS BY HENRY MITCHELL

Mr. Henry Mitchell, Vice President of the Oakley Homeowners Association, presented Council with a list of 18 items that they feel will alleviate the adverse effects caused by excessive through-traffic in their community.

Councilwoman Sitnick thanked the Association for the amount of work they put into the list which is good ground work for the Council. She also felt that a Street and Sidewalk Committee, made of up representatives from every neighborhood, was a good idea.

E. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of July 17-23, 1994: Sandra Sonner (Water), Carol McNeil (Streets), Patricia Swan (Public Works), Mary L. Carney (Streets), Roger Moore (Sanitation), Bruce Greene (Streets) and Wellmon & Floree Eaves (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

F. LAWSUITS

City Manager Farris said that the following lawsuit was served upon the City of Asheville on July 25, 1994: County of Buncombe v. McDaniel, et ux. and City of Asheville, et al.

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. CONTINUANCE:

At 5:25 p.m., Vice-Mayor Peterson moved to continue this meeting until 2:15 p.m. on Thursday, August 11, 1994. This motion was seconded by Councilwoman Sitnick and carried unanimously.

William D. Wolcott, Jr.
CITY CLERK

MAYOR

Thursday - August 11, 1994 - 2:15 p.m.

Continuation of Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldrum; Interim City Manager William B. Farris; and Deputy City Clerk Magdalen Burleson

Absent: None

Mayor Martin called the meeting to order. He stated that this is a continuation of the meeting of Tuesday, August 9, 1994.

Councilwoman Field moved to go into executive session to discuss a personnel issue. This motion was seconded by Councilman Watts and carried unanimously.

At 3:00 p.m., Vice-Mayor Peterson moved come out of executive session. This motion was seconded by Councilwoman Field and carried unanimously.

City Manager Farris provided the City Council with an update on the Skyview Place situation. He also provided the City Council with information about the Light Up Your Holidays festival.

City Manager Farris reported that the Town of Biltmore Forest would like for the City of Asheville to make a proposal to provide fire protection services to the Town of Biltmore Forest. The City Council authorized City Manager Farris to proceed with making a proposal.

At 3:30 p.m., Vice-Mayor Peterson moved to continue this meeting, without further advertisement, until Friday, August 19, 1994, at 2:15 p.m. in the Council Chamber. This motion was seconded by Councilwoman Sitnick and carried unanimously.

William B. Farris, Jr.
CITY CLERK

Russell Martin
MAYOR

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Thursday - August 19, 1994 - 2:15 p.m.

Continuation of Regular Meeting

On August 11, 1994, the City Council continued its meeting until August 19, 1994, at 2:15 p.m. for the purpose of conducting executive session discussions regarding a candidate for the city manager position. The candidate was to be present on August 19 but informed the Council that he could not be present. The meeting was therefore cancelled.

William F. Wolcott, Jr.
CITY CLERK

MAYOR

Thursday - August 19, 1994 - 5:00 p.m.

Emergency Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Interim City Manager William B. Farris

Mayor Martin called the meeting to order. He stated that this emergency meeting is for the sole purpose of conducting discussions regarding a candidate for the city manager position.

At 5:00 p.m., Councilman Watts moved to go into executive session. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Sitnick arrived at 5:20 p.m.

At 6:20 p.m., Councilman Watts moved to come out of executive session. This motion was seconded by Councilman Swicegood and carried unanimously.

Mayor Martin adjourned the meeting at 6:20 p.m.

William F. Wolcott, Jr.
CITY CLERK

MAYOR

Tuesday - August 23, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-155 - RESOLUTION IN MEMORY OF JESSE GREER RAY SR.

Councilman Watts told brief stories of Mr. Ray and his service to this community. He then read the resolution in memory of Jesse G. Ray Sr. and presented it to Mrs. Ray and his family.

Resolution No. 94-155 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 9

B. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

City Manager presented Finance Director Larry Fisher with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

He also presented R. Patricia Leckey, City Accountant, with the Award of Financial Reporting Achievement. Ms. Leckey was designed the individual primarily responsible for preparing the award-wining comprehensive annual financial report.

C. PROCLAMATION PROCLAIMING AUGUST 26-28, 1994, AS "GOOMBAY! FESTIVAL DAYS"

Mayor Martin proclaimed August 26-28, 1994, as "Goombay! Festival Days" in the City of Asheville and presented the proclamation to Rev. L. C. Ray, Interim Executive Director of the YMI Cultural Center.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin reminded the audience that this public hearing was rescheduled until September 27, 1994, at 7:00 p.m. in the Banquet Room of the Asheville Civic Center.

B. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING THE CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR TERM FOR THE MAYOR AND FOUR-YEAR STAGGERED TERMS FOR THE COUNCIL MEMBERS

Mayor Martin opened the public hearing at 4:30 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that on July 19, 1994, the City Council adopted Resolution No. 94-135, scheduling a public hearing for August 23, 1994 on the issue of four-year staggered terms. Following this public hearing, if the Council decides to proceed as proposed, this ordinance will make the necessary changes in the City Charter to accomplish this. The ordinance cannot be adopted earlier than the next regular meeting of the City Council after August 23, and must be adopted, if at all, within sixty days following the public hearing.

The ordinance would amend the City Charter so as to provide for a four-year term for the Mayor, beginning in 1995. The ordinance further provides for four-year staggered terms for the Council Members with the three Council Members receiving the highest number of votes in the 1995 election to serve four-year terms, the remaining three Council Members elected in 1995 to serve two-year terms, with three Council Members to be elected in 1997 and each two years thereafter for four-year terms.

The provisions of the City Charter providing for the election of the Vice Mayor would continue to provide for that position to be filled following each regular municipal election. The Vice Mayor would thus serve for two years in that capacity. The authority to expand the Vice Mayor's term to four years is questionable, and the Council might not want to do so anyway, since there is a possibility of at least three new members of Council being elected each two years, and a Vice Mayor elected by one Council might not be the choice of the majority of the Council two years later.

The provisions of the General Statutes which authorize the Council to amend the City Charter to make these changes allow the amendments to be effective upon adoption of the ordinance, or upon submission of the question to the voters by referendum, whichever the Council may choose. If the Council should decide to submit the issue to the voters, a date for an election should be scheduled by the adoption of a resolution on the same date as the adoption of the ordinance. In the event that the Council adopts the ordinance making the Charter amendments, but does not schedule a referendum, a referendum may be called for upon the submission of a petition signed by at least 10% of the registered voters, or 5,000 voters, whichever is less. Any such petition would have to be filed within thirty days after publication of the notice of adoption of the ordinance.

Councilman Watts felt he needed more time to study the issue and suggested a worksession be scheduled.

Councilwoman Sitnick asked for information on the outcome of how other cities have fared when the question of four-year staggered terms went before the public in a referendum versus Council adoption of an ordinance.

Councilwoman Sitnick felt that being on City Council was an incredible job with responsibilities such as boards and commissions

meetings, Council meetings, Pre-council meetings. evening community meetings, meetings with constituents, speeches, ribbon-cuttings, reading all the material that is necessary, writing notes, doing filing, getting and returning phone calls, attending to written correspondence from constituents, networking in the community, and going to all the events which are sometimes 15-20 invitations a week. She wondered whether or not if Council were to adopt going to four-year staggered terms whether we would have to have some other things on the table for discussion and consideration. For instance, in order to make the process accessible to the diverse and broad-base community, those willing to serve and serve properly according to the time that's required would be giving up a lot of time if they had regular jobs. She said there are members on this Council who do that now, and doing it for two years is quite a commitment and quite a devotion to serving the public. She wondered if four years would require a commitment beyond what people who have jobs or businesses could do. She stated that these are just questions, not really statements. She wondered whether or not we would have to consider the possibility and the feasibility of making City Council a full-time job with full paid benefits and those kinds of things. She realized that the City has become larger and more complex than it was in years past and four years is a long time to commit oneself to this kind of job. If the opportunity is to be embraced by people that do have other jobs and have to earn a living and would be giving up four years to serve on Council then we would have to discuss all of those other possibilities and options in order to make a decision that would be appropriate and would allow the process to be participated in by everyone in the community. She stated that that would be one of her concerns with a four year commitment.

Mayor Martin said that the Buncombe County Commissioners currently serve four-year terms, and they don't seem to have any problem in attracting candidates for Commissioners. He said it is a commitment that anyone who runs for public office has to take seriously and it does take more time than one would expect. He felt, however, there is a learning curve that must be addressed inasmuch as it takes sometimes from six to twelve months for a new Councilmember to get "up to speed". That leaves not quite a year to do an efficient job that Council is charged to do. He also felt the staggered part assures stability. If Council has four-year staggered terms, then there is no instance when everyone could be voted off at the same time. He felt there needs to be some institutional memory of the way something was done in the past so that a new Council coming on would not start from ground zero. He said that four-year staggered terms is the prevalent term of office in the State of North Carolina and he suspected more cities will go to this type term. Obviously it is less expensive to run every four years than every two years if one wants to run again. For these reasons and especially for the stability of the government in this city, he brought this issue up and was open to any discussions on it in order to answer any questions and get objective criticism.

Vice-Mayor Peterson spoke about his support of nonpartisan elections. He felt that it is a necessity that we need in our government in continuing to restructure and change the way government has been done in the past. He stated that with all the different factions that have gone on in the past year, he did have some difficulty in accepting four years. He thought four year terms might be something good in the future, but wasn't sure if this Council should be the Council to vote on a four-year term. He agreed with Councilman Watts on the scheduling of a worksession on this topic.

Councilwoman Field said that she had mixed feelings about this issue. She felt running for office every four years is certainly a lot easier for the candidate. However, if you run for office every two years, it gives the community a chance to support you, to say that you've done a good job, and to put you back in for another two years. It gives the community a chance to vote and to say who they choose. She stated some concerns about the staggered term elections. Some candidates would not be running with any state or national election possibly causing less interest. And because of the less interest, the amount of voters could be even lesser that the 22% which voted in the last City Council election. She stated that the County Commissioners receive more than twice the amount of pay the City Council members receive and that perhaps is why they have no trouble in getting candidates. She said she would not even consider going to a full-time City Council because, in the first place, she didn't think the Council had that much to do to justify a full-time position. She did, however, feel that serving on Council is more than a part-time position, and that perhaps this Council has had to deal with some difficult issues recently consuming more time than usual. But, once you get the hang of it, it's not all that time consuming. She, too, would be interested in having a worksession on this topic.

Councilwoman Sitnick said she also supported a worksession especially to keep the process open and receive public comment beyond today. She felt the 50-70 hours a week she works on Council is not part-time but that is what is required to do it all and be responsive to the people. She said that the whole issue of being paid in a full-time way has nothing to do with pay and getting people to commit, so much as it has to do with extending the process to people who are not independently wealthy. She felt that if Council is going to represent a diverse community then it has to have a diverse Council. And, the only way to do that and have people not earning a living on the outside is to be able to give them the opportunity to earn a living on this side.

Upon inquiry of Councilman McClure on the cost of an election, City Attorney Slawter said that the cost would be approximately $25,000.

Mr. Ralph Bishop spoke against four-year terms and stated that even two year terms were too long. He suggested six months to 90 days.

Mayor Martin closed the public hearing at 4:50 p.m.

Mayor Martin said that on September 20, 1994, Council will consider the first reading of an ordinance making the necessary changes in the City Charter to four-year staggered terms. He said that the Council would also schedule a worksession on this matter.

C. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING ORDINANCE NO. 1501 WHICH AMENDED THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY OF ASHEVILLE

Mayor Martin opened the public hearing at 4:51 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that on July 19, 1994, the City Council adopted Resolution No. 94-146, scheduling a public hearing for August 23, 1994 on the issue of amendment to the City Charter so as to clarify when a second primary is required in City elections. Following this

public hearing, if the Council decides to proceed as proposed, this ordinance will make the necessary changes in the Charter so as to clarify this procedure. The ordinance cannot be adopted earlier than the next regular meeting of the City Council after August 23, 1994, and must be adopted, if at all, within sixty days following the public hearing.

The ordinance would amend Ordinance No. 1501 which was adopted on March 19, 1985, providing for the direct election of the Mayor, rather than election of the Mayor from among the members of the Council. Ordinance No. 1501 carried forwarded old language in the City Charter which required a runoff in a primary if no candidate receives a majority of the votes. Pursuant to general State law, a candidate receiving the highest number of votes who receives at least 40% of the votes (a "substantial plurality"), is determined to be the winner of a primary without a second primary.

During the most recent City Council election, a question arose regarding the interpretation of these provisions. This ordinance would clarify that State law controls.

The provisions of the General Statutes which authorize the Council to amend the City Charter to make these changes allow the amendments to be effective upon adoption of the ordinance, or upon submission of the question to the voters by referendum, whichever the Council may choose. If the Council should decide to submit the issue to the voters, a date for an election should be scheduled by the adoption of a resolution on the same date as the adoption of the ordinance. In the event that the Council adopts the ordinance making the Charter amendments, but does not schedule a referendum, a referendum may be called for upon the submission of a petition signed by at least 10% of the registered voters, or 5,000 voters, whichever is less. Any such petition would have to be filed within thirty days after publication of the notice of adoption of the ordinance.

Mayor Martin closed the public hearing at 4:53 p.m.

Mayor Martin said that on September 20, 1994, Council will consider the first reading of an ordinance making the necessary changes in the City Charter to clarify when a second primary is required in City elections.

D. PUBLIC HEARING TO DESIGNATE ST. MARY'S EPISCOPAL CHURCH, RECTORY AND GROUNDS LOCATED AT 337 CHARLOTTE STREET AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2136 - AN ORDINANCE TO DESIGNATE ST. MARY'S EPISCOPAL CHURCH, RECTORY AND GROUNDS LOCATED AT 337 CHARLOTTE STREET AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 4:54 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Maggie O'Connor, HRC Director, said that on June 8, 1994, the Historic Resources Commission unanimously recommended to City Council that St. Mary's Episcopal Church, rectory and grounds located at 337 Charlotte Street be designated as a local historic landmark.

Designed by noted Asheville architect Richard Sharpe Smith, and built in 1914, St. Mary's Episcopal Church is a very fine example of the picturesque red brick English Gothic-style church. In 1925, the English cottage-style rectory, also designed by Mr. Smith, was built in a garden-like setting designed by an associate of Frederick Law Olmstead. Both buildings are set in beautifully landscaped grounds designed by Chauncey Beadle. St. Mary's is one of the few churches in the south founded for the purpose of Anglo-Catholic worship and the only such church in North Carolina.

Councilwoman Sitnick was pleased that this designation has been made. She felt it is important to preserve historic areas for future generations.

Mayor Martin closed the public hearing at 4:57 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2136. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2136 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 282

E. PUBLIC HEARING FOR THE REVIEW OF THE REVISED CABLE TELEVISION RATE SCHEDULE SUBMITTED BY TCI CABLEVISION

RESOLUTION NO. 94-156 - RESOLUTION EXTENDING THE TIME FOR A DECISION REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES FOR THE BASIC SERVICE TIER

Mayor Martin said that the City received the rate schedule on August 15, 1994, and additional time is necessary in order to review the schedule.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-156, which extends the time period for review of the rate schedule of TCI Cablevision of Asheville until September 20, 1994. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RENOVATION PLANS FOR STEPHENS-LEE RECREATION CENTER

Ray Kisiah, Director of Parks and Recreation, said that the Stephens-Lee Recreation Center does not now meet building codes, safety standards, or the Americans with Disabilities Act requirements. A committee was formed of representatives from the Stephens-Lee neighborhood, Stephens-Lee Alumni Association, and Parks and Recreation staff to review the existing building and to plan for the physical

renovations necessary in order to meet the requirements of a neighborhood recreation program for the Stephens-Lee area. A request for proposals for architectural and design services was sent to all architectural firms in the Asheville area and to selected minority firms in the Greenville/Spartanburg area. After an exhaustive review process, the committee recommended Jane Mathews and Patti Glazer as architects for this project. The architects met with City staff and the committee on several occasions and have completed the drafting of a revised floor plan and extensive program of renovations for the Stephens-Lee building in order that it will not only meet the recreational needs and interests of the people of the Stephens-Lee area but would also meet the legal requirements of the building code and the Americans with Disabilities Act.

The amount of $350,000 is currently budgeted in the 1994/95 Capital Improvements Program for this renovation, however, total project costs are approximated at $1.7 million.

Ms. Patti Glazer then outlined briefly the renovation study.

Councilwoman Field felt the amount of $75.00 per square foot was high and wondered if a cost was known on what it would cost to re-build new rather than renovate. Mr. Kisiah replied that the charge to the Parks and Recreation Department was to look at renovation, not new construction. He also stated that the Stephens-Lee Alumni Association did not want a new building,

Mr. Kisiah responded to questions as the related to asbestos removal and lead base paint abatement costs.

Councilman Watts stated that as a graduate from Stephens-Lee, he supported the renovation of the building which has a history in Asheville.

Vice-Mayor Peterson inquired if any federal or state grants have been applied for in connection with this renovation project. Mr. Kisiah responded that they have submitted a proposal in the EZEC program. Other than that, he did not know of any other grants for a project of this nature.

Mr. Joe Chandler, Neighborhood President, pleaded with City Council to spend the money to renovate this building that holds many dear memories and will, more importantly, keep the kids off the street. He stressed that the did not want a new building - only to renovate this historic building.

Mr. Everette Parrish, Stephens-Lee Alumni Association, urged Council to renovate the building which is located in the heart of Asheville.

Mayor Martin thanked the community for their interest in this project and stated that Council will study the matter further.

B. ORDINANCE NO. 2137 - ORDINANCE AMENDING PORTIONS OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO REFLECT THE NAME CHANGE FROM THE DOWNTOWN DEVELOPMENT DEPARTMENT TO CITY DEVELOPMENT DEPARTMENT

City Manager Farris said that this ordinance will amend portions of the Code of Ordinances to reflect the name change from Downtown Development Department to City Development Department.

The City of Asheville has determined to expand the responsibilities of the Downtown Development Department to include other areas in the City of Asheville and the City Manager has caused the name of that department to be changed to City Development. Certain provisions of the Code of Ordinances need to be amended to reflect that name change.

Councilwoman Sitnick questioned that if the name is changed, will there be any other substantive changes - for instance, to assure the proper representation of other areas in the City.

City Manager Farris' understanding of that is it is a policy question that would need to be addressed by City Council. The administration of the City is simply tasked by this Code revision to support the Downtown Development Commission. If Council wishes to change the membership or representation of that Commission, then that is a separate question. City Development would still be responsible for providing for staff support.

Vice-Mayor Peterson stated that he has been contacted by business owners on Tunnel Road who feel they have received no recognition from the Downtown Commission. They too would like to be included for sidewalks, trees, lighting, etc.

Councilwoman Field, member of the Downtown Commission, explained that she felt what the Downtown Commission did was to have the first meeting with the groups that were already organized, such as West Asheville and Biltmore Village. The Commission is requesting that any other group that wants to organize, they will help facilitate that process. The Tunnel Road business owners need to contact either City Development or Brady Blackburn who is Chairman of the Downtown Commission, to let their interest be known.

Councilwoman Sitnick stated that the whole point of changing the name to City Development was not just to change the surface activity of Downtown Development but to make sure that every business area of this community was represented equally in a meaningful way. The reasons for the request were so that there was an even distribution of interest, concern and application of what the City feels and does to these other areas.

City Manager Farris said that the important change that he sees with the Department is that it's work program has changed and that's what the administration of the City has control over. Obviously if the City has an umbrella commission, it can't be called the Downtown Commission because it is for the entire City. He felt the issues of the development downtown, or other areas of the City, are different kinds of situations. He didn't think the Council wanted to have a big commission that deals with all that, but have each area with its own representation. He felt it was necessary for the City to work with people to have a vested interest in those areas in order to be successful.

Councilwoman Sitnick agreed that each area should have its own commission with perhaps a combined meeting two or three times a year. But, her understanding of the name change was so that the same attention and emphasis that was placed on filling the buildings in downtown, and improving the conditions in downtown were spread out across the City in order to extend economic vitality to these other areas. She wanted to make sure that the attitude change occurs along with the name change.

City Manager Farris said the changes in term of resources available are minimal. He didn't think that, realistically speaking, the City in "Year One" could expect to have little revitalization projects going on all over the City. He felt the City has to take them one at a time and we are now making plans to do some work on Haywood Road. He felt the City needed to be successful in whatever it does and Haywood Road is an area where we can be successful and where there is interest already there. He envisioned Tunnel Road being almost a Public Works emphasis than maybe traditional downtown revitalization. He hoped that rather than having a department that is involved in all of these different things that we have teams that have representation from several departments that go together and work on these issues and resolve them. Perhaps the major responsibility on Tunnel Road may be Public Works, but on their team would be planning, downtown revitalization and other departments.

Councilman Swicegood agreed with Councilwoman Sitnick's comments and stressed that the name change was a good way to start being more user friendly and developing a better working relationship.

Vice-Mayor Peterson also agreed with prior comments about being user friendly and equal representation from each area.

Councilwoman Sitnick said she felt individual commissions would better represent their neighborhoods. There were lots of comments during the campaign that put Council here having to do with people feeling left out in the City - with people feeling like they were the ugly stepchild and they got what was left or nothing at all. Her point is that we need to have a fully vital City where economic development really benefits everyone and where we create a City that has a lot more interest. Most cities that you go to will have a downtown area and then an area that specializes in some kind of funky district or some kind of a wonder high-class shopping district - they have districts with different feelings to them and different personalities. That's what makes a City interesting. The other reason for her comments is that rather than having all of the potential economic development activities competing with each other, being jealous of each other, trying to sabotage each other. The idea is, for instance, downtown, the Riverfront, the South Pack Square Revitalization Project, the Grove Arcade, the Hand-Made in America, to all come together and work together through a City Development Department in order to enhance the entire City across the board - bringing in equal City-wide representation to this Department. This is apart from a commission. Whether the City has a Downtown Development Commission and a West Asheville Development Commission, etc., is separate from what she is talking about.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2137. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2137 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 285

C. RESOLUTION NO. 94-157 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO REVISE CERTAIN USER FEES

Ms. Cindy Batson, Internal Auditor, explained that this resolution will amend the Fees and Charges Manual to include increases of existing fees or implementation of new fees in the following areas: parking services, building safety, collection services, police services, soil erosion and sedimentation control and City-wide copy and report fees.

At the direction of City Council, a team of City staff has reviewed both existing and proposed fees and prepared a report indicating where changes are possible. This report has been reviewed with the Council Committee. Some of the fees included in the report can be implemented immediately (September 1, 1994) and some need additional review.

Other areas which need additional study will be presented to the Council Committee with a recommended effective date of January 1, 1995.

City Manager Farris responded to Vice-Mayor Peterson's question as it related to the Civic Center.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-157. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 11

D. ORDINANCE NO. 2138 - BUDGET AMENDMENT RELATIVE TO CHANGE ORDERS TO CONTRACT NO. 10 FOR STREET AND SIDEWALK WATER IMPROVEMENTS

City Manager Farris said that this budget amendment, in the amount of $317,418, authorizes an increase in appropriation for Contract No. 10 to accommodate changes in water and sewer lines that occurred as a result of the street construction. These changes were approved as they do not exceed the contingency in the Contract 10. However, since these changes are water and sewer related, we request that Council increase the appropriation by the amount of the change orders because there is a corresponding revenue to these expenses. This increase in appropriation allows us to maintain our contingency.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2138. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2138 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 287

E. RESOLUTION NO. 94-158 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 4, 1994, RELATIVE TO AN ELECTED SCHOOL BOARD

City Attorney Slawter said that this resolution will schedule a public hearing regarding the issue of an elected school board. If the City Council should determine that an elected board is preferable to an appointed board, the Council could request that such a change be made by

the North Carolina General Assembly. The City Council does not have the authority to make this change on its own.

Councilman McClure said that questions of an elected school board has come up on several occasions and felt it was time in order to have this public hearing in order to get some public comment.

Councilwoman Field suggested City Council hold a worksession on the pros and cons of an elected school board.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-158, setting a public hearing on this matter for October 4, 1994, at 7:00 p.m. in the Banquet Room of the Asheville Civic Center. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 18

F. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE SUPPLEMENTAL WATER AGREEMENT AND APPROVING AN AMENDMENT TO THE BYLAWS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

At the request of Phil Smith, attorney for the Asheville-Buncombe Water Authority, this item was removed from consideration by Council.

V. CONSENT:

At the request of Mr. Ralph Bishop, the approval of the minutes of the meetings held on 8/9, 8/11 and 9/19, 1994, was removed from the Consent Agenda. Mayor Martin stated that this item would be considered at the next City Council meeting which will be on September 20, 1994.

A. RESOLUTION NO. 94-159 - RESOLUTION OF INTENT TO CLOSE CLARK LANE AND CALLING FOR A PUBLIC HEARING ON 9/20/94

RESOLUTION BOOK NO. 22 - PAGE 19

B. RESOLUTION NO. 94-160 - RESOLUTION REGARDING DISPOSAL OF CITY-OWNED PERSONAL PROPERTY VALUED LESS THAN $500

Summary: This resolution identifies city-owned personal property disposed of for the period of January 1, 1994, through June 30, 1994.

RESOLUTION BOOK NO. 22 - PAGE 20

C. RESOLUTION NO. 94-161 - RESOLUTION REQUESTING MSD TO REHABILITATE THE SEWER LINE SERVING NOS. 161, 165, 167 and 169 MERCHANT STREET

Summary: As part of the MSD Agreement with the City dated November 21, 1989, MSD shall spend up to $200,000 in any one fiscal year for the take over and rehabilitation of private sewer systems. Projects will be addressed by MSD on a first come, first serve basis each year. The City has received a request from the homeowners of Nos. 161, 165, 167 and 169 Merchant Street Azalea Road that the City make a formal request to MSD for rehabilitation of the collector sewer system serving their homes.

RESOLUTION BOOK NO. 22 - PAGE 21

D. RESOLUTION NO. 94-162 - RESOLUTION APPOINTING A MEMBER TO THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: This resolution will appoint Dr. Michael Keleher as a member of the Police Officers and Firefighters Disability Review Board for a two year term, term to expire July 19, 1996, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 22

E. RESOLUTION NO. 94-163 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: This resolution will reappoint Leni Sitnick as a member of the Asheville Tree/Greenway Commission for an additional three year term, term to expire August 1, 1997, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 23

F. RESOLUTION NO. 94-164 - RESOLUTION REAPPOINTING A MEMBER TO THE TOURISM DEVELOPMENT AUTHORITY

Summary: This resolution will reappoint John Winkenwerder as a member of the Tourism Development Authority for an additional three year term, term to expire August 30, 1997, or until his successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 24

G. RESOLUTION NO. 94-165 - RESOLUTION APPOINTING A CHAIRMAN TO THE CIVIL SERVICE BOARD

Summary: This resolution will appoint Beth Arrowood as Chairman of the Civil Service Board for a two year term, term to expire May 21, 1996, or until her successor has been duly appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 25

H. MOTION TO RESCHEDULE PUBLIC HEARING ON PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES FROM SEPTEMBER 20, 1994, TO SEPTEMBER 27, 1994

I. RESOLUTION NO. 94-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR A TRAFFIC ENFORCEMENT UNIT GRANT WITH THE NC GOVERNOR'S HIGHWAY SAFETY PROGRAM

Summary: This will authorize the City Manager to file a grant application to the Governor's Highway Safety Program for second year funding of the Police Department's STEP Project. The resolution calls for formal appropriation of City funds in the amount of $48,675.

RESOLUTION BOOK NO. 22 - PAGE 26

J. RESOLUTION NO. 94-167 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY TO ACCEPT A BID TO PURCHASE DISPOSAL PARCEL 19 IN THE HEAD OF MONTFORD REDEVELOPMENT PROJECT

Summary: This resolution will authorize the Housing Authority to accept a bid to purchase Disposal Parcel 19 on Short Street from Neighborhood Housing Services of Asheville Inc. (NHS) in the amount of $3,500.

The total area of land is 6,000 square feet. The proposed development will consist of 900 square feet for a two bedroom bungalow built handicapped accessible. The completed home will be offered for sale by NHS to a low income family.

RESOLUTION BOOK NO. 22 - PAGE 27

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-168 - RESOLUTION DIRECTING THE ADMINISTRATION TO INITIATE AN AMENDMENT TO THE CITY'S ZONING ORDINANCE TO ALLOW DEVELOPERS AND PROPERTY OWNERS TO UTILIZE PERVIOUS MATERIALS FOR OFF-STREET PARKING

City Manager Farris said that this resolution, initiated at the direction of Councilwoman Sitnick, will direct City staff to draft a proposal for amending the City's Zoning Ordinance as it applies to the provision of off-street parking. Currently the City requires all parking areas to be paved. There is concern that this requirement is too inflexible and works contrary to Council's efforts to control stormwater runoff. The resolution directs staff to study the issue and prepare a report and proposed wording amendment for review by the Asheville Planning and Zoning Commission at their October meeting. Planning and Zoning's recommendation will then be forwarded to you for your consideration.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-168. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 28

B. RESOLUTION NO. 94-169 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING AND ZONING COMMISSION

City Manager Farris said that this resolution will reappoint Roderick Hudgins and appoint Robert M. Swicegood II to the Planning and Zoning Commission for three year terms respectively. Their terms will expire on August 14, 1997, or until their successors have been duly appointed and qualified.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 94-169. This motion was seconded by Councilman McClure and carried on a 5-2 vote, with Councilwomen Field and Sitnick voting "no".

Councilwoman Sitnick stated that she was opposed to appointing Robert M. Swicegood II primarily because she felt the City needed some representation from West Asheville on the Planning and Zoning Commission.

RESOLUTION BOOK NO. 22 - PAGE 29

C. RESOLUTION NO. 94-170 - RESOLUTION AUTHORIZING EXECUTION OF MUNICIPAL AGREEMENT

City Manager Farris said that this resolution will authorize the Mayor to execute an agreement with the N.C. Department of Transportation for the replacement of Bridge #83 over Ross Branch.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-170. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 30

D. SELF-HELP CREDIT UNION

Vice-Mayor Peterson was pleased that the Self-Help Credit Union has been making improvements on some concerns the City Council had expressed earlier to them.

E. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of August 10-17, 1994: Shaun P. Donahue (Streets), Dorothy Jackson (Streets), Juanita Roberts (Parks & Recreation), Suzanne N. Dawkins (Parks & Recreation), Carol A. Silva (Water), Starr Furniture (Water), Adele Schmidt (Civic Center), and Maria Keranis (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

F. EXECUTIVE SESSION

At 6:30 p.m., Councilman Swicegood moved to go into executive session to discuss a personnel issue and a legal issue. This motion was seconded by Councilman McClure and carried unanimously.

At 6:50 p.m., Councilman Swicegood moved to come out of executive session. This motion was seconded by Councilman McClure and carried unanimously.

G. RALPH BISHOP

Upon inquiry of Mr. Ralph Bishop as to whether a quorum was present, City Attorney Slawter said that by State law there was a quorum present. He explained that no one was excused before leaving therefore the law considers everyone as still being there.

Mr. Bishop commented on the salary of the City Manager.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:52 p.m.

William S. Malcolm
CITY CLERK

Russell Martin
MAYOR

Tuesday - September 13, 1994 - 4:00 p.m.
Housing Authority Offices - 165 South
French Broad Avenue and
Council Conference Room - City Hall

Worksession

Present: Mayor Russell Martin, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Deputy City Clerk Magdalen Burleson

Absent: Vice-Mayor Chris Peterson and Councilman Joseph Carr Swicegood

There was a presentation by the Community Loan Pool relative to City Council support.

A worksession with held with the Housing Authority of the City of Asheville relative to the proposed Public Housing Project at the corner of Virginia and Brotherton Avenues.

City Council briefly discussed their thoughts on four-year staggered terms.

Mayor Martin asked that the Stormwater Committee continue meeting with Councilwoman Sitnick as its Chair. He asked that Barber Melton and Ron Butler remain on the Council committee along with Councilmembers Field and McClure.

A motion was made by Councilman McClure to extend William B. Farris' agreement from September 1, 1994, to October 17, 1994, in accordance with specific terms. The motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION NO. 94-174 - RESOLUTION AUTHORIZING THE EXCHANGE OF OWNERSHIP OF TWO MOTOR VEHICLES TO THE CITY OF ASHEVILLE

City Manager Farris said that the City assigns two officers as resource officers to the Asheville City Board of Education. These officers work in the school system. The Board is currently required to provide the officers with vehicles covered by their insurance. The Board's insurance company has refused to insure the vehicles operated by the two officers. The Board wishes to convey the vehicles to the City. The City's Risk Manager recommends acceptance of the vehicles, with the vehicles to be used by the resource officers in their capacity primarily as resource officers.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-174. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 34

Police Chief Will Annarino discussed the police community watch substation in Montford. Council members expressed their support.

Councilwoman Sitnick moved to adjourn the worksession at 5:00 p.m. This motion was seconded by Councilman McClure and Carried unanimously.

William D. Wolcott, Jr. / Russell E. Martin

CITY CLERK MAYOR

Tuesday - September 20, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: Vice-Mayor Chris Peterson

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-171- RESOLUTION IN MEMORY OF Z. B. COOK

Councilman Watts read the resolution in memory of Z. B. Cook and presented it to Mr. Joe Webster who would pass it along to Mrs. Cook.

Councilwoman Field moved for the adoption of Resolution No. 94-171. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 31

B. RESOLUTION NO. 94-172 - RESOLUTION IN MEMORY OF CALVIN A. STOUT SR.

Councilman Watts read the resolution in memory of Calvin A. Stout Sr. and presented it to Mrs. Stout and his family.

Councilwoman Field moved for the adoption of Resolution No. 94-172. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 32

C. RESOLUTION NO. 94-173 - RESOLUTION RECOGNIZING THE HEROIC EFFORTS OF ASHEVILLE FIREFIGHTERS IN RESCUING CATHERINE BALLARD

Mayor Martin and Council members presented Steve Fridl, Joe Meadows and Chris Morgan with a resolution recognizing their heroic efforts in rescuing Catherine Ballard from the recent flood waters on August 17, 1994.

Ms. Ballard was present and thanked all those who came to her rescue.

Fire Chief John Rukavina then pinned Mr. Fridl, Mr. Meadows and Mr. Morgan with a personal commendation bar each. He said that the skill and bravery demonstrated by these three firefighters is representative of the skill and bravery of all Asheville firefighters, and of the support provided by other members of the Asheville Fire Department on duty and at the scene of Catherine Ballard's emergency that day.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-173. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 33

D. PROCLAMATION PROCLAIMING SEPTEMBER 28, 1994, AS "FINANCIAL INSTITUTION BLOOD DONOR DAY"

Mayor Martin proclaimed September 28, 1994, as "Financial Institution Blood Donor Day" in the City of Asheville and presented the proclamation to Lisa Lusk.

E. PROCLAMATION PROCLAIMING OCTOBER 2-8, 1994, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Martin proclaimed October 2-8, 1994, as "Minority Enterprise Development Week" in the City of Asheville and presented the proclamation to Jim Drummond who briefly explained some activities taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin reminded the audience that this public hearing was rescheduled until September 27, 1994, at 7:00 p.m. in the Banquet Room of the Asheville Civic Center.

B. PUBLIC HEARING RELATIVE CLOSING CLARK LANE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 94-175 - RESOLUTION TO CLOSE CLARK LANE IN THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Martin opened the public hearing at 4:37 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said that a petition has been filed by Rainbow Mountain Children's School Inc., Church of God-West Asheville, and Walter Russell and wife, Vinne Russell, requesting Clark Lane be permanently closed to public use.

All adjoining property owners have signed the petition and the closing will not deny any property owner access to their property.

Mayor Martin closed the public hearing at 4:39 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-175. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 37

C. PUBLIC HEARING FOR THE REVIEW OF THE REVISED CABLE TELEVISION RATE SCHEDULE SUBMITTED BY TCI CABLEVISION OF ASHEVILLE

RESOLUTION NO. 94-176 - RESOLUTION APPROVING A RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER

Mayor Martin said that the City received the rate schedule on August 15, 1994, and additional time was necessary in order to review the schedule. The public hearing was continued until this date.

Mayor Martin opened the public hearing at 4:40 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Manager Farris said this resolution will approve the most recent rate schedule submitted by TCI Cablevision of Asheville to the City of Asheville.

The 1992 Cable Act authorized the City of Asheville to regulate the basic service tier and related equipment, installation and service charges of TCI Cablevision of Asheville. The Federal Communications Commission ("FCC") established a formula for determining the level of reasonable rates for the charges. The initial formula was adopted in 1993, but was revised on February 22, 1994. The 1994 regulations required that TCI submit a new rate schedule to the City of Asheville on or before August 13, 1994. The schedule was received on August 16, 1994.

The City Council previously ordered TCI to reduce its rates to the 1993 maximum permitted by the FCC. After receiving the 1994 rate formula, TCI reduced its rates and submitted the rate schedule for review. The new monthly rate for basic service tier is $9.19, which is reduced from the previous monthly rate of $9.77.

A review of the rate schedule shows that the recently reduced rates comply with the FCC maximum permitted rates. The FCC formula for the maximum permitted rates is based upon a nationwide survey by the FCC of cable television systems, based upon an analysis of the average rates of cable television systems subject to effective competition. The FCC considered the number of channels on and subscribers for cable television systems that are subject to effective competition. The FCC permitted rates are, therefore, based upon a survey of rates of comparable cable television systems.

A review of the table showing rates charged by TCI in Asheville and in Buncombe County, as well as rates charged by other systems in cities of similar size, should be based upon the recognition that there are a number of variables, including the number of channels and subscribers, which affect the maximum rates permitted by the FCC for each individual system. The minimum rate which the City Council may approve is that rate permitted by the FCC, which is $9.19 per month.

The City Council may now consider two courses of action:

1. Take no action as no written decision is necessary for approval of a rate schedule that is within the FCC's permitted maximum charges; or

2. Adopt this resolution which approves the rate schedule submitted by TCI.

If there are objections of subscribers to the approval of the rate schedule, the City Council should adopt the resolution approving the rate schedule, which decision could be appealed by a subscriber to the FCC.

As approval of this resolution would provide some closure to the recent submittal of the rate schedule, approval of the resolution is respectfully recommended.

Councilwoman Sitnick said that after Council deals with this issue relative to the rate schedule, she would like to request that the City work with TCI Cablevision to determine how the gross revenues are determined and how the City, as the authority, can work with them on our franchise fees and what the City of Asheville gets from those fees.

Mr. Dan Martin, General Manager of TCI Cablevision, summarized the rate schedule information. He said that when the new City Manager takes office, he would be happy to sit down with him to discuss renewing the franchise and developing it into a more modern document.

City Manager Farris said that it might be appropriate at this time to add a request in this resolution that TCI Cablevision provide the City with audited financial statements so that we can answer questions that keep coming up about the franchise fees.

Mayor Martin closed the public hearing at 4:45 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-176, providing that TCI Cablevision provide the City with audited financial statements. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 38

III. UNFINISHED BUSINESS:

A. AN ORDINANCE AMENDING THE CITY CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE PURSUANT TO N. C. GEN. STAT. SEC. 160A-102 TO PROVIDE FOR A FOUR-YEAR STAGGERED TERM FOR THE MAYOR AND FOUR-YEAR STAGGERED TERMS FOR THE CITY COUNCIL MEMBERS

Mayor Martin said that this public hearing was held on August 23, 1994.

City Attorney Slawter said that at the September 13, 1994, City Council meeting, the Council decided to adopt an ordinance providing for four-year staggered terms, but subject to a referendum. It is too late to have that issue on the November 1994 ballot. In order to have this issue on the November 1995 ballot, with the changed terms beginning in 1997, if approved, the City Council will need to delay further action until 1995. N. C. Gen. Stat. sec. 160A-102 provides that if the Council makes a Charter change subject to a vote of the people, that referendum takes place within 90 days of the date of adoption of the ordinance. The Council will therefore need to begin the process again in July 1995 and adopt the ordinance in August 1995 in order to have the referendum in November 1995.

Mayor Martin said that he had no objection to the Mayor's term remaining at two years.

B. ORDINANCE NO. 2139 - ORDINANCE AMENDING ORDINANCE NO. 1501 WHICH AMENDED THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR DIRECT ELECTION OF THE MAYOR BY ALL THE QUALIFIED VOTERS OF THE CITY OF ASHEVILLE

Mayor Martin said that this public hearing was held on August 23, 1994.

City Attorney Slawter said that on July 19, 1994, the City Council adopted Resolution No. 94-146, scheduling a public hearing for August 23, 1994 on the issue of amendment to the City Charter so as to clarify when a second primary is required in City elections. That public hearing was held on August 23, 1994. This ordinance will make the necessary changes in the Charter so as to clarify this procedure. This ordinance must be adopted, if at all, within sixty days following the public hearing.

The ordinance would amend Ordinance No. 1501 which was adopted on March 19, 1985, providing for the direct election of the Mayor, rather than election of the Mayor from among the members of the Council. Ordinance No. 1501 carried forward old language in the City Charter which required a runoff in a primary if no candidate receives a majority of the votes. Pursuant to general State law, a candidate receiving the highest number of votes who receives at least 40% of the votes (a "substantial plurality"), is determined to be the winner of a primary without a second primary.

During the most recent City Council election, a question arose regarding the interpretation of these provisions. This ordinance would clarify that State law controls.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2139. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2139 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 289

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR THE MIDLANDS OF LAKEVIEW PARK SUBDIVISION

Senior Planner Gerald Green said that The Midlands of Lakeview Park Subdivision is located at the intersection of Merrimon Avenue and Stratford Road.

The preliminary plat for the 19 lot subdivision was approved by the Planning & Zoning Commission on October 6, 1993. City Council granted a variance permitting a street right-of-way width of 40 feet within the subdivision.

All new streets in the subdivision will be constructed to City standards and dedicated to the City. Access to the subdivision will be from Pineacre Boulevard. The developers have submitted a letter of credit to guarantee the completion of streets and other public improvements. The final plat and the letter of credit have been reviewed and approved by the Legal, Public Works and Planning Departments.

Upon inquiry of Councilman McClure about property lines overlapping Stratford Road, Mr. Green responded that it's typical on some of the older developed areas that the property line actually goes into the street. However, the City has an assumed right-of-way through use of a street and there is no lot which actually goes into the street. All the lots meet the minimum lot size without going into the streets.

Councilwoman Sitnick questioned if the street right-of-way width of 40 feet will have any impact on traffic. Mr. Green responded that the street will be built to the same City standard width regardless of the width of the right-of-way. The right-of-way is just to provide adequate room for public services. The right-of-way width will have no impact on traffic.

Councilwoman Field said that the City should encourage developers to put in pedestrian paths through the subdivision. Mr. Green said that City staff does make that recommendation to the developers. He also said that the proposed Unified Development Ordinance would require subdivisions of this size to have some type of pedestrian accommodation.

When Councilwoman Sitnick questioned if this development had any stormwater control measures incorporated into the design, Mr. Green said that he knew of none, except the standard ones.

Councilman Watts moved for the final plat approval of The Midlands of Lakeview Park Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

B. FINAL PLAT APPROVAL FOR TOP OF TRAPPER'S RUN SUBDIVISION

At the request of City staff, this item was deleted from the Agenda.

C. RESOLUTION NO. 94-177 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A UTILITY AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR WIDENING AND CONSTRUCTION OF BROADWAY AVENUE FROM CATAWBA STREET TO I-40

City Manager Farris said that this resolution authorizes the execution of a municipal agreement with N.C. Department of Transportation ("NC DOT") for the relocation and adjustment of certain municipally owned water lines located along the project known as Broadway Avenue. He said this is a standard agreement for any state highway improvement project. Our right-of-way agreements require that if NC DOT needs the right-of-way, the City moves the utilities.

Upon inquiry of Councilman Swicegood about cost, Mr. Farris said that it would range anywhere from $100-$150,000.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-177. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 39

D. RESOLUTION NO. 94-178 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE SUPPLEMENTAL WATER AGREEMENT AND APPROVING AN AMENDMENT TO THE BYLAWS OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

City Attorney Slawter said that this ordinance will amend the Supplemental Water Agreement and approve an amendment to the bylaws of the Asheville-Buncombe Water Authority.

The Water Authority currently consists of three appointees from the City, three from the County and two members appointed by the other six members. The current agreement provides for membership to revert to seven members, effective January 1, 1995, consisting of the six City and County appointees plus one additional member appointed by those six.

The Water Authority has requested that the membership be expanded to include the following membership: three members appointed by the City; three members appointed by Buncombe County; two members appointed by Henderson Count; and two additional members to be appointed by those eight members through December 31, 1997, with the eight governmental appointees to appoint only one member after December 31, 1997.

This resolution provides for the expansion of the Water Authority in accordance with the request of the Authority, so as to provide for a total of ten members through December 31, 1997, and nine members thereafter.

This resolution also provides for the approval of the Water Authority bylaws in accordance with that expanded membership.

Councilwoman Sitnick said that she didn't feel comfortable in supporting the resolution. She has no problem with the appointment of the two members from Henderson County and no problem with the membership as it is now with the addition of those two new members. She does, however, have a problem with reverting back to nine members in 1997. Her concern is that there is an outstanding make-up currently on the Water Authority and the City is poised at the threshold of some monumental changes taking place in our community, in our county and in our region. She feels that in order for the proper input and the proper continuity to occur on the Water Authority that it behooves us to maintain the Authority as it is now in order to make sure that the representation is both diverse and academic. She is concerned that if we were to reduce the membership, that we could potentially lose the proper kind of representation and the broad representation that is going to be an absolutely critical element to the decision-making and vision that occurs in our community for both water source, infrastructure and economic development. She thinks that the argument that we need an uneven number on the Authority is bogus. The Authority has had eight members for quite some time and the voting has gone fine. She cannot support this because of the last provision in the amendment that the Authority revert back to seven members with the two appointed from Henderson County on December 31, 1997.

Mayor Martin felt that the decision should be left up to the Council in office in 1997 whether to revert back to nine members or keep the ten member board.

Councilwoman Sitnick appreciated the Mayor's comments and again stated that she had no problem with extending the membership now. She did, however, remember the controversy that occurred in this community a few years ago in order to expand the Authority. Rather than subject the future Council, the future Mayor and the community to those kinds of deliberations again, her attitude was that "if it ain't broke, don't fix it" and things seem to be going just fine with an even number of members, with the kind of diversity of representation on that Authority. By 1997 things are just going to begin to heat up and she thinks that if we can create some commitment to the best possible representation on the Water Authority possible, now is the time to commit to it. She would certainly like that to be her legacy.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-178. This motion was seconded by Councilwoman Field and carried on a 5-1 vote, with Councilwoman Sitnick voting "no".

RESOLUTION BOOK NO. 22 - PAGE 40

E. RESOLUTION NO. 94-179 - RESOLUTION RECONSIDERING FUNDING FOR THE COMMUNITY OUTREACH INC. SUMMER CAMP PROGRAM

Councilman Watts said that this resolution will authorize the City Manager to transfer $5,000 from contingency to Community Outreach Inc. to cover costs of the Summer Camp Program.

Councilman Swicegood was sure that the program was good, but felt that since the City did go through a difficult process of which programs to fund due to budget cuts, he didn't feel it was appropriate for them to now come back and ask for funding again having been denied earlier. He felt it leaves the City in a vulnerable situation of having to deal with all the groups that were turned down earlier.

Councilman Watts stated that he, personally, was asking for the Council to reconsider the funding, not Community Outreach Inc. After he visited the site and found out how much they were in need of funds to help keep our youth off the street, he felt it was very worthwhile for the City to fund the program.

Councilman McClure realized that tough decisions were made at budget time and felt that the Council would be setting a dangerous precedent in funding the program after it had been turned down earlier. However, he felt that it might be appropriate to fund this Program out of any unspent money from the City's Summer Youth Program, if any monies were unspent.

Councilwoman Field said that there is an outside agency process and knew that many difficult decisions where made on which programs to fund and which programs not to fund. She agreed that this an excellent program for our young people but felt they should not have gone around the process that the other agencies were required to follow. She questioned their 501C3 status stating that the City requires that particular status of all of its other outside agencies.

Mayor Martin assured Councilwoman Field that they did not mean to go around the already established process.

Councilman Watts felt that any monies funded at all to this very worthwhile program would be appreciated.

Councilwoman Sitnick said that the business of government is really interesting - sometimes you get the feeling that the people want too much, the government doesn't deliver and there are all of these pulls and paradoxes. Not too long ago this Council allocated $185,000 to help a developer put in a project. On Council's agenda today we are considering allocating $100,000 for a good cause - business to come in and help economic development, help the tax base and provide some good wage jobs. Unfortunately the bottom line is that when we're doing our numbers, they don't always reflect everything that happens in our society. Certainly with business we often times don't reflect the bottom line cost that pollution contributes to our financial dilemma. When we talk about social problems we don't usually put the numbers in the bottom line that crime and violence and poverty and illiteracy and disenfranchisement cost the community. And here we're talking about $5,000. She agrees with Councilwoman Field that the process is important and it's the only fair way, the even-handed way, when people are coming before Council to ask for money. She realized there is an outside agency program that went on and they did wonderful work, but she has difficulty balancing how the City spends all of this money up front for all kinds of worthy projects, but like Councilman Watts said, we don't consider the costs down the line for not doing something in a preventative fashion. She also said that while she understands the concerns of Councilman Swicegood and the others about process and about when you finish your budget you don't have people coming back to you, but she has a real hard time denying $5,000 for a program that's going to be managed by the Ministerial Alliance given their good work they have done in the past. She appreciated their presentation and would like to see this money given to them. In addition, she would like to see them come to the Council and let the Council know how the money is being spent and whether it was successful and effective. She also would like to see this Council eventually develop a generic policy as to our commitment to the young people of this community.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 94-179, providing for the Community Outreach Inc. Summer Camp Program be funded out of any funds remaining in the Summer Youth Employment Program up to a maximum of $5,000. This motion was seconded by Councilwoman Sitnick and carried on a 5-1 vote, with Councilman Swicegood voting "no."

RESOLUTION BOOK NO. 22 - PAGE 42

F. RESOLUTION NO. 94-180 - RESOLUTION REGARDING THE AUTHORIZATION OF AN INSTALLMENT CONTRACT FOR FINANCING POST-RETIREMENT BENEFIT LIABILITIES AND SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994

City Manager Farris said that this resolution will authorize the Interim City Manager, the City Manager, and Finance Director, with advice from the City Attorney and special counsel, to negotiate an installment financing contract, the proceeds of which will pay off, at a savings, the City's contract with the N.C. Local Government Employees Retirement System (NCLGERS) for its unfunded prior service pension obligation. This obligation was incurred when the City's Pension Plans were merged into NCLGERS in 1977-1980.

This resolution also directs the Finance Director to file an application with the Local Government Commission for its approval of the contract. The resolution sets a date and time for a public hearing concerning the contract.

It is anticipated that this financing arrangement will save the City between one and two million dollars between now and March 2003. March 2003 is the date that the City's existing pay-as-you-go obligation to NCLGERS for funding its prior unfunded service obligations would be fulfilled.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-180. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 43

G. RESOLUTION NO. 94-181 - RESOLUTION AUTHORIZING ECONOMIC DEVELOPMENT ASSISTANCE

City Manager Farris said that Trinity Industries Inc. has announced its plans to expand its plant for the manufacture of components and accessories for rail cars with a corresponding increase in employment between 150 to 200 jobs. Any financial assistance by the City Council to the company would be for site improvements and site access to secure these additional jobs for the residents of Asheville. This resolution will express City Council intent to allocate a total of $100,000 for the Trinity Industries Project. The financial assistance is conditioned upon similar assistance being approved by Buncombe County and the State of North Carolina. The funds will be provided on a reimbursement basis to be disbursed in two equal payments, with one payment in Fiscal Year 1994-95 and one in Fiscal Year 1995-96.

Councilwoman Field asked if the City could earmark its portion of the money to be used for infrastructure. Mr. Farris felt that the City could probably do that, in fact, the money may be restricted in how it can be use.

City Attorney Slawter said that before Council could actually allocate funds for such a project, a public hearing would be required and the notice of that public hearing would have to set forth how much money the City is going to participate in the project and the specific means by which that money would be used in the project.

Councilman McClure was concerned about equal share - where City residents also pay County taxes and if there was a way to off-set some of the double payments that the City residents would have to make.

When Councilman McClure questioned if MSD would be participating in this project. Mr. Farris said he has not be in any of the discussions at that level of detail but didn't think that their lines extension policy would allow them to participate.

Mayor Martin said that it was his understanding that the City would benefit by approximately $52,000 per year in tax revenue, not taking into account any subsidiaries that would follow.

Councilwoman Sitnick said that unfortunately she was not able to be at the presentation made by Trinity Industries and she would like to have the opportunity to speak to some people about this. She felt it was a good idea, a good project, and a good business, but the only hang-up for her is this Council has from time-to-time discussed the need for

the City to develop an economic development assistance policy so that when the City is approached for economic development assistance, that they do it with fairness . She felt it was important for the City to begin to dialog about that policy so that when we get these kinds of requests, we treat everybody equally and we know exactly what our policy is regarding economic develop and whether we, as a Council, want to ear-mark our monies for infrastructure needs - which is one of the greatest municipal responsibilities we have.

City Manager Farris said that he sent a draft policy to Council last Friday. The draft does have pay-back provisions, provisions on what the City's money might be used for, it allows special consideration if there are minority owned businesses, etc. He felt it was a workable draft that Council could build from.

Councilwoman Sitnick felt that since Council has not gone over the various provisions in the draft, citing no reference to environmental considerations, no reference to whether or not we want to extend assistance to non-polluting industries, industries that have low water use, etc. she feels that some time needs to be spent in a worksession discussing the draft policy. She has no problem in supporting this industry but thinks that it's important for the Council to come up with something that works for everybody equally. She felt that if the City is going to commit money - parameters are needed.

Mr. Ralph Bishop asked how the City Council could say that this financial assistance would secure additional jobs for the residents of Asheville.

Councilman Swicegood said that the Council would be naive to feel that the additional jobs would go only to City residents, however, there will be other monies spent and other jobs created by this company which will be assets to the City.

Councilwoman Field said that it's her understanding that these additional jobs will be high paying jobs, these people will be living in the Buncombe County, Asheville area and since Asheville is the retail center, whether they live in the City or not in the City, their sales tax money will be predominantly to the City.

Councilwoman Sitnick said that the resolution before the Council reads that "the City Council wishes to provide financial assistance . . . to secure these additional jobs for the residents of Asheville." She agreed with Councilman Swicegood and Councilwoman Field that there is no way we can guarantee that these jobs will be given to residents of Asheville, so she would like that portion which reads "to secure additional jobs for the residents of Asheville" be stricken from the resolution and something along the lines of "to secure additional jobs for the residents of our area" be inserted in its place. She felt that particular paragraph was misleading.

It was the consensus of Council to reword the paragraph to read "the City Council wishes to provide financial assistance . . . to secure additional jobs for the City of Asheville and surrounding area."

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-181. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 47

H. ORDINANCE NO. 2140 - BUDGET AMENDMENT RELATIVE TO COMMUNITY LOAN POOL SUPPORT

City Manager Farris said that this budget amendment, in the amount of $27,000, is to administer the Community Loan Pool through the Self-Help Credit Union for the 1994-95 fiscal year. At Council's worksession on September 13th, representatives from this Loan Pool provided a six-month update on the activities of that organization. The results of that six-month status report are encouraging. Therefore, the Council directed staff to prepare a budget amendment for this function. The appropriation will be funded from the General Funds non-departmental contingency. The contingency is adequate to support funding this request. As with the other agencies, this amount represents a 10% reduction from the 1993/94 fiscal year.

Councilwoman Sitnick commended the Community Loan Pool for improving the work they are doing and commended Vice-Mayor Peterson for creating the dialog that was able to lead to this new agreement with the Loan Pool.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2140. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 5-1, Ordinance No. 2140 passed on its first and final reading, with Councilman Swicegood voting "no."

ORDINANCE BOOK NO. 14 - PAGE 291

V. CONSENT:

At the request of Mayor Martin, the resolution relative to the 1995 Tour DuPont will be taken off the consent agenda and considered individually.

Councilwoman Sitnick requested the minutes of the August 23, 1994, meeting be amended to include her verbatim comments made during the discussion relative to the resolution changing the name of Downtown Development Department to City Development Department.

Upon inquiry of Mr. Ralph Bishop, Mayor Martin explained the difference between a worksession and a formal Council meeting.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 9, AUGUST 11, AUGUST 19, AUGUST 23 (as amended), AND SEPTEMBER 13, 1994

B. RESOLUTION NO. 94-182 - RESOLUTION TO AWARD TWO MINI-VANS FOR THE POLICE DEPARTMENT

Summary: This resolution recommends awarding the bid for 2 mini-vans to Matthews Ford Inc. in the amount of $32,784.

Two bids were received for two 1995 Ford "Aerostar" vans at a price of $16,392 each. Matthews Ford Inc. was the lowest bidder. A copy of the complete bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 22 - PAGE 48

C. RESOLUTION NO. 94-183 - RESOLUTION TO AWARD CONTRACT FOR WATER METERS

Summary: This resolution recommends awarding the bid for water meters to Schlumberger Industries Inc. in the amount of $321,360.

Two bids were received to establish a two year term purchase contract for the estimated quantity of 6,240 5/8-inch and 200 1-inch water meters with encoder registers less trade-in of equal quantities of scraped 5/8-inch and 1-inch meters. Schlumberger Industries Inc. was the lowest bidder.

Meters will be ordered on an as needed basis and maintained in Central Stores inventory for use by the Water Maintenance Division. A copy of the complete bid summary is attached hereto as Exhibit "B".

RESOLUTION BOOK NO. 22 - PAGE 50

D. RESOLUTION NO. 94-184 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO SELL SURPLUS MOTOR VEHICLES, OFF-ROAD EQUIPMENT AND OTHER SURPLUS PROPERTY AT PUBLIC AUCTION

Summary: This resolution requests authorization for the City's Purchasing Division to hold a public auction to dispose of motor vehicles, off-road equipment, and other miscellaneous property declared as surplus by various City departments and divisions.

RESOLUTION BOOK NO. 22 - PAGE 52

E. RESOLUTION NO. 94-185 - RESOLUTION ACCEPTING CERTAIN STATE MAINTAINED STREETS IN THE BEAVERDAM AND BREVARD ROAD ANNEXATION AREAS AS CITY SYSTEM STREETS

Summary: The City of Asheville has annexed into the City a section along Brevard Road and along Beaverdam and Lynn Cove Road. The City of Asheville is requesting the North Carolina Department of Transportation remove the following streets from the Secondary Road System and be placed upon the City of Asheville Street System as City maintained streets: Oakview Road, Pine Ridge Court, Interstate Boulevard, Dogwood Road, Old Brevard Road, Pine Lane and Sunny Side Lane.

RESOLUTION BOOK NO. 22 - PAGE 69

F. RESOLUTION NO. 94-186 - RESOLUTION AMENDING THE MEMBERSHIP OF THE CITIZENS/POLICE ADVISORY COMMITTEE

Summary: This resolution will amend the membership of the Citizens/Police Advisory Committee pursuant to a request of Chairman Tommy Sellers.

The amendment will make the City Council member and the two ad hoc member be non-voting members. Presently the only non-voting member on the Committee is the Chief of Police.

RESOLUTION BOOK NO. 22 - PAGE 70

G. RESOLUTION NO. 94-187 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL AGREEMENT WITH N.C. DEPARTMENT OF TRANSPORTATION FOR RAILROAD CROSSING SIGNALS

Summary: This resolution will authorize the Mayor to execute a municipal agreement with N.C. Department of Transportation for a railroad crossing signal at the intersection of Piney Park Street and the Norfolk Southern Railway Crossing.

The City's share of this cost is $7,500 plus $490 annually for maintenance of these traffic signals and gates.

RESOLUTION BOOK NO. 22 - PAGE 72

H. **RESOLUTION NO. 94-188 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF ASHEVILLE, A FEDERAL AVIATION GRANT AGREEMENT, 3-37-0005-18**

Summary: This resolution will authorize the acceptance of a grant agreement in the amount of $1,296,440 from the FAA to widen the parallel taxiway and connecting taxiways.

RESOLUTION BOOK NO. 22 - PAGE 73

I. **RESOLUTION NO. 94-189 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO EXECUTE A MODIFIED GRANT AGREEMENT WITH THE N.C. DEPARTMENT OF TRANSPORTATION FOR PHASE III TERMINAL EXPANSION**

Summary: This resolution will authorize the Mayor to execute a state airport aid modified grant agreement for Phase III terminal expansion. The additional $300,000 needed will bring the amount of the grant to $833,260. It will also extend the time of completion of the state grant from January 1, 1995, to January 1, 1996.

RESOLUTION BOOK NO. 22 - PAGE 74

J. **RESOLUTION NO. 94-190 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO BUNCOMBE COUNTY SHERIFF'S DEPARTMENT**

Summary: This resolution requests Council's authorization to convey surplus equipment to the Buncombe County Sheriff's Department pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 75

K. **RESOLUTION NO. 94-191 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO TOWN OF BILTMORE FOREST POLICE DEPARTMENT**

Summary: This resolution requests Council's authorization to convey surplus equipment to the Town of Biltmore Forest Police Department pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 76

L. **RESOLUTION NO. 94-192 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO BUNCOMBE COUNTY EMERGENCY MANAGEMENT AGENCY**

Summary: This resolution requests Council's authorization to convey surplus equipment to the Buncombe County Emergency Management Agency pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 77

M. **RESOLUTION NO. 94-193 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO GROUP 1 OF THE NORTH CAROLINA WING OF THE CIVIL AIR PATROL**

Summary: This resolution requests Council's authorization to convey surplus equipment to Group 1 of the North Carolina Wing of the Civil Air Patrol pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 80

N. **RESOLUTION NO. 94-194 - RESOLUTION AUTHORIZING THE SALE OF SURPLUS RADIO EQUIPMENT TO NORTH CAROLINA SEARCH AND RESCUE DOG ASSOCIATION**

Summary: This resolution requests Council's authorization to convey surplus equipment to the North Carolina Search and Rescue Dog Association pursuant to N. C. Gen. Stat. sec. 160A-274.

RESOLUTION BOOK NO. 22 - PAGE 82

O. **RESOLUTION NO. 94-195 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE OTEEN III ANNEXATION AREA AND FIXING THE DATE OF A PUBLIC HEARING ON DECEMBER 6, 1994**

Summary: This resolution states the intent of the City to consider the annexation of an area east of the City limits and sets the public hearing date for December 6, 1994. The boundaries of the annexation area are, generally, the existing City limit line along Riceville Road to the west and along Tunnel Road (U.S. 70) to the south, and along the centerline of the Blue Ridge Parkway to the north and east.

This annexation was initiated by the City Council in response to the request of the VA Medical Center to be annexed. A larger area is being considered to offset the loss in revenue resulting from the termination of the fire protection services contract with the VA Medical Center.

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P. **MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO PARTIALLY REZONE 1401 PATTON AVENUE**

Q. **MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO REZONE 2 MICHIGAN AVENUE AND 15/15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT**

R. **MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO ZONE BEAVER DAM RUN AREA TO R-2 RESIDENTIAL DISTRICT**

S. **MOTION SETTING A PUBLIC HEARING FOR OCTOBER 4, 1994, TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT**

T. **MOTION TO RESCHEDULE THE PUBLIC HEARING RELATIVE TO AN ELECTED SCHOOL BOARD FROM OCTOBER 4, 1994, UNTIL OCTOBER 11, 1994, AT 7:00 P.M. IN THE COUNCIL CHAMBER IN THE CITY HALL BUILDING**

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. **RESOLUTION NO. 94-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MEDALIST SPORTS INC., THE GROVE PARK INN AND THE CITY OF ASHEVILLE FOR THE PURPOSE OF SPONSORING THE 1995 TOUR DUPONT ON MAY 4 AND MAY 5, 1995**

Mr. Jim France, Co-Chair of Stage 8 of the 1995 Tour DuPont and General Manager of the Grove Park Inn, briefly explained the 1995 Tour DuPont.

The actual race venue will be the same as last year with the finish of the race on May 4 being held on College Street and with the start of the next day's race beginning at the Grove Park Inn. The route for the leg of the race which will finish in Asheville will be from Greenville, S.C. The next day's leg will begin at the Grove Park Inn and will conclude at Banner Elk, North Carolina.

This event brings international attention to the City of Asheville at relatively small cost and provides the opportunity for the City to host an event in cooperation with the Grove Park Inn and various business interests within the City.

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-196. This motion was seconded by Councilwoman Sitnick and co-seconded by Councilman Watts, which motion carried unanimously.

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B. **GROUP DEVELOPMENTS**

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on September 7, 1994:

HARRIS TEETER ADDITION ON HENDERSONVILLE ROAD

Mr. Green said that on September 7, 1994, the Planning and Zoning Commission unanimously recommended approval of the proposed Harris Teeter expansion with no conditions.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

PATTON AVENUE BI-LO

Mr. Green said that on September 7, 1994, the Planning & Zoning Commission reviewed the site plan for a new 38,500 square foot Bi-Lo grocery store to be located at the corner of Patton and Louisiana Avenues. The Commission recommended approval of the site plan with the following conditions:

1. Obtain driveway permits from NC DOT and City of Asheville;
2. Obtain approval for planting in street right-of-way from NC DOT and City of Asheville;
3. Receipt of letter approving sewer allocation;
4. Provide traffic signal feasibility analysis to City Traffic Engineer; and
5. Install Siamese connection as requested by Fire Department.

Councilman Watts questioned if there was any opposition expressed. Mr. Green stated that he had received one phone call regarding traffic.

Councilwoman Sitnick questioned if this project would have to comply with the stormwater development regulations and Mr. Green responded that it would.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

C. DAILY RATES AT PARKING DECKS

Councilwoman Field requested the City Manager provide Council with information about rolling back the daily parking rates at the parking garages over the winter. Since the City is now going into the slow season, she would like to see what the impact would be on the budget to roll it back to $3.00 (opposed to current daily rate of $4.00), and then possibly pick up the fourth dollar in the spring, going into the tourist season. It was her understanding that the impact for rolling it back to $3.00 for the whole year would be $9,000.

City Manager Farris said that he would provide Council with that information at a worksession, along with some other information relative to rates at the parking decks versus off-street parking rates.

D. REGULATION OF ADULT BUSINESSES

Councilman McClure moved to direct the Planning and Zoning Commission consider an amendment to the Zoning Ordinance regarding regulation of the location of adult businesses. This motion was seconded by Councilwoman Sitnick and carried unanimously.

E. RALPH BISHOP

Mr. Ralph Bishop made comments to Council relative to their stonewalling items he has brought to their attention in the past dealing with criminal activities.

F. CLAIMS

City Manager Farris said that the following claim was received by the City of Asheville during the week of August 18-24, 1994: Robert Cohen (Water).

He said the following claims were received for the week of August 25-31, 1994: Fred and Robin Shelton (Parks & Recreation), Johnnie Hemphill (Water), Shirley Kinney (Streets), Jim Anderson (Streets), Charles Miller (Water), Bell-South (Water) and Jennifer Minyard (Water).

He said the following claims were received for the week of September 1-8, 1994: Jeff Sadagursky (Water) and Jonathan E. Harkness (Water).

He also said the following claims were received for the week of September 9-15, 1994: Ruhlon Todd Fowler (Streets), Battery Park 30-1/2 (Public Works), Bell-South (Water), Bob Ledford's RV (Police) and Jim Goodrum (Fire).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:17 p.m.

Miriam S. Holcomb
CITY CLERK

MAYOR

EXHIBIT "A"

BID SUMMARY
BID REQUEST NO. 433-95

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, AUGUST 25, 1994 3:00 P.M.

TWO (2) MINI VANS FOR THE CITY POLICE DEPARTMENT

ITEM NO.		MATTHEWS FORD ASHEVILLE, NC	PARKWAY CHEVROLET ASHEVILLE, NC
1.			
(2) New Seven	MODEL	Aerostar	CM11006
Passenger Mini	MANUFACTURER:	Ford	Chevrolet
Van	YEAR	1995	1995
	UNIT COST:	$16,392.00	$16,978.00
	AMOUNT:	$32,784.00	$33,956.00
	DELIVERY:	45 - 60 Days	60 to 90 Days
	TERMS:	Net 30 Days	Net 30 Days

E[redacted]T "B"

BID SUMMARY — CITY OF ASHEVILLE
BID REQUEST NO. 430-95 — PURCHASING DIVISION BID OPENED: WEDNESDAY, AUGUST 10, 1994

BIDS TO ESTABLISH A TWO YEAR TERM PURCHASE CONTRACT FOR THE ESTIMATED REQUIREMENT OF 6,240 EACH FIVE-EIGHTHS (5/8) INCH AND 200 EACH ONE (1) INCH WATER METERS WITH ENCODER REGISTERS LESS TRADE-IN OF EQUAL QUANTITIES OF SCRAPED 5/8 INCH AND 1 INCH METERS

ITEM NO	SCHLUMBERGER INDUSTRIES INC. ROSWELL, GA	SENSUS TECHNOLOGIES INC. UNIONTOWN, PA
1-A. 6240 Each 5/8" Water Meters	$53.00 ea. $330,720.00	$71.08 ea. $443,539.20
1-B. (6240 Each) Trade-In 5/8" Meters	($4.00) ea. ($24,960.00)	($2.50) ea. ($15,600.00)
2-A. 200 Each 1" Water Meters	$87.00 ea. $17,400.00	$119.67 ea. $23,934.00
2-B. (200 Each) Trade-In 1" Meters	($9.00) ea. ($1,800.00)	($4.00) ea. ($800.00)
TOTAL NET BID AFTER TRADE-IN ALLOWANCE	$321,360.00	$451,073.20
METER BID	Neptune T-10	Sensus SR II
TERMS	Net 30	Net 30
DELIVERY	30 Days ARO	30 Days
BID DEPOSIT	5% Bid Bond	5% Bid Bond

The following companies submitted a `No Bid': Davis Meter and Supply, Asheville, NC; ABB Kent Meters, Inc., Ocala, FL; and Water Pro Supplies Corporation, Asheville, NC.

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Tuesday - September 27, 1994 - 7:00 p.m.
Civic Center Banquet Room

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

Councilwoman Sitnick gave the invocation.

PUBLIC HEARING RELATIVE TO A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin opened the public hearing at 7:12 p.m. He stated that the Council would not be taking any action at this meeting. After the public hearing Council will take into consideration all the comments made and put the item back onto their agenda in the very near future.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. David Jones, Executive Director of the Housing Authority of the City of Asheville, presented Council a packet of information detailing what has been taking place from the beginning of the project until this public hearing. He said Project 19 was 50 units scattered through all four geographical areas of the City. The Brotherton site is about 28 units - one and two bedroom units. They are duplexes, quadraplexes, one eight unit and two eight units comprising of 28 units on this 5.6 acre tract. He noted that maps are available if the public wished to look at the design. Part of these units will be for the handicapped, and part will be for families who need one and two bedrooms - there are no three or four bedroom units there. Due to density of the area, they have taken all of the three and four bedroom units to other sites. This site would accommodate 88 units under the City's zoning ordinance, however, the Housing Authority is proposing to put 28 units on the site.

He addressed the issue about the Housing Authority being secretive about this site. In order to address the secrecy issue, he said the project started on May 14, 1992, with the submittal of HOPE I Home Ownership Application. He then read an additional 46 entries specifically noting a letter from HUD to the Mayor dated 8/31/93 regarding scattered sites; a letter from the Mayor to HUD dated 9/2/93 acknowledging receipt of this memo and committing to this project; and a letter from HUD approving this project for Asheville dated 1/12/94. He said they have met with representatives of the community to talk about what could be done in order that the project be more compatible with what the intentions of the community might be. They were unable to meet any resolution. He stated that the Housing Authority wants to do something in keeping with the neighborhood and they are still open for that at this point.

Upon inquiry of Vice-Mayor Peterson, Mr. Jones stated that on December 23, 1993, the Housing Authority bought the property in question.

The following persons spoke in support of the project for various reasons including, but not limited to, a good place to be warm, a place for homeless to live, apartments for the handicapped and retired and the basic need for low income housing in Asheville:

Beth Maczka, 7 Garden Terrace and Executive Director of the Affordable Housing Coalition
Dale Vern, resident of Pisgah View Apartments
Mary Robertson, officer of the Asheville Housing Residents Council, officer and resident of Aston Park Towers and Chairperson of the Americans with Disabilities for Buncombe County
Noreen Woody, President of the Woodridge Residents Association
Douglas Graham, Architect for the Housing Authority (presented blueprints of two proposed options and briefly explained design of units)
Barbara Robertson, resident of Erskine Street Apartments
Cora Batten
Lawrence Gilliam, 10 Gilliam Place, employee of the Housing Authority, first and only black Scoutmaster to serve at the Trinity Church in West Asheville
Elizabeth Bocklet, 87 Forest Hill Drive
Jerilyn McMillan, resident of the Montford District and volunteer for Helpmate
Asheville High student
Caroline Braun, resident of the ABCCM Shelter
Shanda Watkins, representing a specialty agency working with youth in the community
John Hayes
William Wynn
Scott Dedman, resident of Montford and Executive Director of Mountain Housing Opportunities
Lalonie Mosley
Walter Currie, Attorney for the Housing Authority
Bert Sonner, 263 Forest Hill Drive, Associate Director of the Self-Help Credit Union, member of the Board of Realtors and own a real estate company in Asheville
A resident of the Hillcrest Housing Project
Kimberly Weston, 57 Austin Avenue
Susan Walton, 144 Chatham Road and employee of the Housing Authority

The following persons spoke in opposition of the project, not objecting to affordable, low-income housing, but this specific Brotherton location. Their reasons include, but are not limited to, no management of the existing apartments operated by the Housing Authority, the number of housing projects that already exist in West Asheville, current traffic problems on Virginia Avenue, no comprehensive impact study, the aged water system with low water flow, no public transportation within reasonable reach, narrow road in which children walk to school, escalation of crime, the density of the property, the measurable external depreciation caused by the location of the low income housing project, the need for upgrade of the infrastructure and no sidewalks.

Kay Kort, resident of Enka Village
Margaret Ballew, 261 Virginia Avenue
Richard Nantelle, President of the West Asheville Community League and resident at 44 Virginia Avenue

Tommy Sellers, resident of East Asheville, owner of property in West Asheville for 14 years, President of the West Asheville Business Association
William Cogburn, 25 Drake Street
Becky Putnam, 17 Brotherton Avenue
Joe Chandler, President of the East End/Valley Street Association
Bill Hodges, representative of West Asheville Census Tract 10 Neighborhood Association
Dick Rice, 15 Brotherton Avenue
Jonathan Guest, resident of West Asheville
Charles Wilson, resident of West Asheville
Nicasio Martinez, resident of Leicester
Craig Justice, attorney representing the West Asheville Community League (also presented Council with information relative to water supply, traffic counts, etc.)
Harold DeBruhl, real estate appraiser and real estate consultant with offices at 428 Haywood Road (presented Council with his report)
Oliver Downes, 135 Virginia Avenue
A resident of 43 New Jersey Avenue
Malrey Moseley, 216 Virginia Avenue
Allen Cogburn, 205 Virginia Avenue
Pam Deaton, 174 Hudson Street
Resident of Beaumont Street
Carl Chesick, 251 Virginia Avenue
Mike Wilson, Garden Circle in West Asheville
Carlos Montgomery, 242 Virginia Avenue

Mr. Nantelle, President of the West Asheville Community League, stated that his community has always warmly welcomed anyone willing to be a responsible and respectable part of it and they shall continue in that direction. However, insinuations have been made that their opposition to this project has been anti-civil rights and even racially motivated. They will not tolerate nor allow their voice to be steered or misguided in such a demeaning direction.

Mr. Tommy Sellers, President of the West Asheville Business Association, said that his Association unanimously opposes another large complex of public housing in West Asheville.

Ms. Beth Maczka, Executive Director of the Affordable Housing Coalition, presented to Council a unanimously endorsed resolution adopted by the Affordable Housing Coalition resolving that the Coalition supports affordable housing development and that the Coalition particularly opposes holding affordable housing developments to a higher standard than non-low income housing and commercial developments.

Mr. Jonathan Guest made an inquiry about a HUD policy that imposed penalties against people who spoke out against public housing projects. Not only did Ms. Maczka from the Affordable Housing Coalition and Mr. Bob Smith from the Community Relations Council assure him that their organizations backed no such policy, but Councilman McClure presented a copy of Nations Weekly which stated that HUD no longer backs that policy and that the public should not fear speaking up.

Councilwoman Sitnick questioned if Ms. Maczka had received answers to questions she raised during the Asheville-Buncombe Water Authority meeting that day. Ms. Maczka said that she had not but the Authority is looking into them.

Mr. Bill McElreath, representative of an engineering firm contracting with the Housing Authority to provide the electrical, mechanical and plumbing design for the units said that numerous questions have been raised about the availability of water at this site. He was asked by Mr. Jones if there was an engineering solution to the problem and he replied that there was. The most obvious solution is to upgrade the water system. However, an alternative which has also been discussed would be to provide a sprinkler system in the multi-unit buildings. This is only one engineering solution, but feels there are others. When Councilwoman Sitnick asked Mr. McElreath if he would provide the Council with those solutions and the costs associated with them, he said he would.

Mr. John Broadbooks, landscape architect and consultant to the Housing Authority, briefly explained that the project basically meets all the ordinance requirements for the development and they are ready to comply with any modifications the City Council deems appropriate.

Mr. Charlie Williams, representative of the Asheville Fire Department, passed out information relative to fire flow for the proposed project. He said that on June 24, 1994, he reviewed the project and approved it subject to the on site hydrant shown on the plans being capable of providing a minimum of 1000 gpm at 20 psi residual pressure. On August 26, 1994, Fire Marshall Wayne Hamilton Fire Marshal reported that a flow test conducted on August 23, 1994, revealed inadequate flow and pressure for the project and that improvements must be made which result in the required flow specified above. However, as an alternative, the project may be sprinklered and water line improvements made to deliver 500 gpm at 20 psi residual. He explained the reason for the difference in the requirements for sprinklered and non-sprinklered structures.

Councilwoman Sitnick wanted to say first is that she is saddened by the fact that many of you feel that this has become a referendum on affordable housing. Personally she has worked and fought for social justice and affordable housing and the poor and the disenfranchised for 25 years of her adult life. She assured this public meeting that this Mayor and this Council are committed and dedicated to providing the things that the most burdened amongst us need. When we first took office, one of the first groups that the Mayor requested to meet with was the Affordable Housing Coalition so that we could hear those needs from them. What she'd like to do is to read some questions into the record, not for response this evening to keep you here any longer, but she would like to read them into the record because she thinks it's important and she would like answers to them if we could provide a copy of these meetings in writing to the question section to the appropriate people she would be grateful.

To respond to some of the questions and concerns raised this evening:

1) Are we taking care of the units in existence now?
2) Are we going to lose $3 Million from HUD and do we have that in writing somewhere to explain the reasons for that?
3) Is the cost of each unit $74,000, as one of the speakers said earlier, and is that with or without the land?
4) Would zoning have allowed 25 single family homes on the 5.5 acres?
5) On July 6, Mr. Jones told Council that there was a 2% vacancy rate in existing housing. She wanted to know how many units was that and was that the current rate today?

6) How many sites were looked at?
7) Were there any buildable tax lots that were considered?
8) Is there anymore rehabilitation potential in this one-to-one battle that apparently HUD did not insist on, but was asked for. And, I applaud that from the Housing Authority. We need to replace home ownership units with rental units.
9) Have we maximized our existing housing stock?
10) Could be buy those 28 homes, that one of the speakers referred to earlier, for less money than the units are costing? And, if we could, could the money that's left over be used to provide low interest loans to those folks who are buying those homes so that rather than put people into more rental units in housing projects, we really put them into affordable housing so that we can provide the kind of pride and self-esteem that was referred to several times.
11) Have we looked at all of the lots that houses have been demolished on or should be demolished on?
12) Could be buy units for less than we build? That's the main question.
13) Have we tried mixing public housing with market housing as Boston did, apparently to great success.
14) Is it true that in some cases these units cost more than the neighborhood houses do?
15) The United States has spent millions of our tax dollars on public housing and in some cases we have created Cabrini Greens, like in Chicago, and in other cases we've done much better. But have we looked into all of the creative ideas? Have creative solutions been stifled? Especially solutions that would be unique and appropriate to Asheville.
16) Have we challenged HUD, an agency not free from scandal and waste, she added.
17) Public housing shouldn't be a long-term solution. Is should be an asset, not a liability. And have we, as the speaker earlier mentioned, screened properly, enforced properly?

For me personally, what we need to do is take the de-humanizing factors out of our policies and not put good people into living conditions that remind them everyday they're different. She lived in public housing for a year as a child and she can tell you she felt real different. People matter and she heard that from both sides of this issue tonight. They need dignity and they need self-esteem and they need to feel self-worth. They need hope with their reform and that's the human factor that ought to be part of providing affordable housing. It's a national shame that even one person in our country is homeless or hungry. She assures you this is a gut-wrenching situation for her and for the rest of Council and we have all searched our souls on this. We don't want to delete one penny from providing what is needed here. We just want to provide the kind of housing that's proper and appropriate. And that really, truly does weave people back into the fabric of society and doesn't put them in ghettos that makes them feel different every day.

Mayor Martin closed the public hearing at 9:34 p.m.

Mayor Martin then adjourned the meeting.

William F. Holcombe
CITY CLERK

MAYOR

Tuesday - October 4, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. CAROLINA DAY SCHOOL

Mayor Martin and Council thanked Kathie Kline and her 6th Grade Class of Carolina Day School for coming to observe the Council meeting.

A representative of the 6th Grade Class thanked the Mayor and Council for all their help during the week as they learned about local government.

B. RESOLUTION NO. 94-197 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE KENNETH BISHOP

City Manager Farris read the resolution stating that Kenneth Bishop has been an employee for almost 30 years and has requested retirement from his position as District Chief in the Fire Department. He expressed City Council's appreciation to Ken for his service to the City of Asheville and its citizens.

Resolution No. 94-197 was adopted by acclamation.

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C. RESOLUTION NO. 94-198 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM SUDDERTH

City Manager Farris read the resolution stating that William Sudderth has been an employee for 24 years and has requested retirement from his position as Trade Worker III at the Asheville Civic Center. He expressed City Council's appreciation to Bill for his service to the City of Asheville and its citizens.

Resolution No. 94-198 was adopted by acclamation.

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D. PROCLAMATION PROCLAIMING OCTOBER 9-15, 1994, AS "ASHEVILLE FIRE PREVENTION WEEK"

Mayor Martin was pleased to announce that the Asheville Fire Department was presented with the International Association of Fire Chief's "Life Safety Achievement Award".

Mayor Martin then proclaimed October 9-15, 1994, as "Asheville Fire Prevention Week" and presented the proclamation to Fire Chief John Rukavina.

E. PROCLAMATION PROCLAIMING OCTOBER 25, 1994, AS "ASHEVILLE AREA CHAMBER OF COMMERCE DAY"

Mayor Martin proclaimed October 25, 1994, as "Asheville Area Chamber of Commerce Day" and presented the proclamation to Mr. Charles Reiley, President of the Asheville Area Chamber of Commerce.

F. PROCLAMATION PROCLAIMING OCTOBER 1994 AS "CRAGGY CHAPEL MONTH"

Mayor Martin proclaimed the month of October 1994 as "Craggy Chapel Month" and presented the proclamation to Mr. Brown, Director of Admissions at Buncombe Baptist Resource Center and Chairman of the Church Committee.

G. PROCLAMATION PROCLAIMING OCTOBER 2-8, 1994 AS "GREEK HERITAGE WEEK"

Mayor Martin proclaimed the week of October 2-8, 1994 as "Greek Heritage Week" and presented the proclamation to Vice-Mayor Peterson who urged everyone to enjoy the Greek Festival at the City/County Plaza on October 7-9, 1994.

II. PUBLIC HEARINGS:

Mayor Martin reminded the audience that the public hearing relative to an elected school board would be held on October 11, 1994, at 7:00 p.m. in the Council Chamber in the City Hall Building.

A. PUBLIC HEARING RELATIVE TO PARTIALLY REZONING 1401 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin opened the public hearing at 4:26 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transit Planner, said that this ordinance requests the rezoning of a portion of a lot, located at 1401 Patton Avenue, from R-3 Medium Density Residential to CH Commercial Highway. The property is currently being used for commercial purposes as an established funeral home. The lot is split zoned and the owner has requested that the entire lot be zoned CH.

He said City Planning staff has recommended that the portion of the lot be rezoned from R-3 Residential to CH Commercial Highway in order to eliminate the split-zoned lot. The building and parking lot (which are located on the portion of the lot that is zoned R-3), are being used for commercial purposes, therefore, the remaining portion of that lot should be rezoned to CH Commercial Highway.

He said the original request by the petitioners was to rezone 24 Tampa Avenue and this split zoned lot. The Planning and Zoning Commission unanimously recommended denial. Not speaking on behalf of the Commission, Mr. Ownbey felt they denied the rezoning because of all the other uses permitted in the CH zone, even though there were no current plans for Groce Funeral Home to change their current use. He also felt they denied it based on drainage and water runoff problems in the area.

Groce Funeral Home Inc. is only appealing the decision of the Planning and Zoning Commission as it relates to the rezoning of a portion of 1401 Patton Avenue (not the rezoning of 24 Tampa Avenue).

Mayor Martin said that a petition was received on October 3, 1994, in the Mayor's Office, which has 27 signatures on it, stating that "We the undersigned residents of Lucerne Park request the support of Asheville City Council to honor Planning and Zoning Commission's denial of Groce Funeral Home's request to rezone any part of their property from R3 (residential district) to CH (commercial highway). We feel that any further intrusion of commercial zoning into the neighborhood will be detrimental to the quiet, family environment of Lucerne Park." He said the petition has not been checked. Also, the Mayor said a letter dated October 2, 1994, has been received from Guy and Mary Ann Morris asking that City Council deny the request.

Councilwoman Sitnick said that she would have a difficult time voting against the Planning and Zoning Commission's decision because they do not vote unanimously all the time. She has a difficult time not appreciating their expertise in their advisory capacity, especially when they vote unanimously on something. In consideration of (1) the runoff problem that already exists there from the paved surface; (2) the existing intrusion into the neighborhood; (3) not knowing what the Commercial Highway designation could bring in the future as far as commercial use (that goes beyond of what's there now), coupled with the signatures on the petition, (whether they've been checked or not), the letters that she's received, and the multiple phone calls that she's received - she felt that just to eliminate a split lot is not enough of a reason for her to vote against the Planning and Zoning Commission decision. We might vote today and then move on with the rest of the things on the agenda, but the folks who are living in the back of that area will have to wonder about what's going to happen to their neighborhood, what's going to happen to their property values, and what's going to happen with additional runoff from rain. If the property is already being used for what the funeral home needs it for, she would have a difficult time changing the back end of that property to commercial highway when it abuts a residential neighborhood, regardless of what residential designation it is.

Upon inquiry of Vice-Mayor Peterson, Mr. Ownbey said that the commercial buildings on the R-3 portion are grandfathered and would not have to be removed if the designation remained R-3.

Mr. Max Cogburn, attorney for Groce Funeral Home Inc., passed out to Council a booklet containing an overhead photograph of the property, copy of a zoning map, copy of the 1944 purchase description, copy of the commercial building permit issued in 1982, copy of a building permit issued 9-15-94 (which would not permit construction on rear portion of the property), an Asheville Planning office staff recommendation to approve rezoning from R-3 to CH and a summary.

Mr. Cogburn felt that since the original request was to rezone 24 Tampa Avenue and the split zoned lot, that the opposition expressed by the neighbors and the denial by the Planning and Zoning Commission was directed at the rezoning of 24 Tampa Avenue and not the split zoned lot. He stated that they are only appealing the decision not to rezone the split zoned lot.

He said that Groce Funeral Home believed until this summer that their entire property was zoned commercial highway and in fact received

a commercial building permit for a commercial garage in 1982 on the portion of property that they now know is zoned R-3. Groce has been using the property as commercial throughout their history. The R-3 area contains three buildings and if these buildings were to require significant repair, the R-3 designation would negate any possibility of rebuilding, and if Groce could not continue commercial use of this area, their future at this location would be in serious jeopardy. The building permit issued on 9/15/94 "bringing handicap ramp up to Code" indicates that any commercial building activity must take place on the commercial highway portion of the split zoned property.

He stressed that the zoning map shows what appears to be an arbitrary zoning line across the rear 20% of Groce property. There are no measurements or markings to indicate the exact location of this zoning line and it does not follow any previous property border. He urged Council to rezone the entire lot commercial highway making the official records reflect the truth of how the land is being presently being used.

Upon inquiry of Mayor Martin, City Manager Farris said that perhaps when the Planning and Zoning Commission reviewed the request, they realized they must be prepared for any use that's permitted in the commercial highway district, not just the way it's being used now.

When Councilman Watts questioned why their future at this location would be in serious jeopardy if the portion were not rezoned commercial highway, Mr. Cogburn responded that if they had to make minor or major repairs, there might be some problem in obtaining a building permit for a commercial building in an R-3 district.

Upon inquiry of Councilman McClure if any future expansion by Groce Funeral Home would fall under the new stormwater control ordinance, City Manager Farris felt that it would.

Councilwoman Sitnick wondered if they needed to make major repairs (if the property were grandfathered and there would be no consequence to the owners if it remained split zoned), would they be able to request a variance to be able to do those repairs on the existing building which was build several years ago but now grandfathered in?

Mr. Cogburn responded that it is always possible to ask, however, it's hard to ask an operating business to wait for a variance if the building was severely damaged, e.g., a fire.

Councilwoman Sitnick stated then the concern of the neighborhood is the reverse. If the area is zoned commercial highway right up to their back yards then they are the ones who are hanging in limbo wondering whether or not the funeral home will expand or sell or even have the beautiful building torn down with perhaps a Bi-Lo being built there or something like that. What she sees that back portion of the property being is kind of, not technically, but kind of, a buffer zone at this point or a transitional type zone where it's being used for what it's needed for but it also kind of assures the neighborhood that it won't be, in the future, some kind of increased commercial activity on that property.

Mr. Cogburn responded that since the neighborhood did not want 24 Tampa Avenue to be rezoned commercial highway, they are not appealing that decision. However, the split zoned lot has always been a single lot and that's not going to change.

Mayor Martin questioned that if the funeral home was demolished for some reason, would the developer have to come before the Council. City Manager Farris responded that there are approvals that would have to be obtained, like building permits and perhaps a stormwater permit, but the zoning would be in place so that any permitted use in the commercial highway district would be permitted.

Councilwoman Field said that typically it is good planning practice not to split zone a lot, however, sometimes it is done for a specific reason. She said that, in looking at the picture, the split zoned part looks more than 20% and stated concern if the line actually goes through the building. She questioned repairs to the building that extended from one zone into the other, like the 10 foot handicapped ramp extension having to be constructed on the portion of property zoned commercial highway.

Planning Director Julia Cogburn said there are non-conforming provisions of the ordinance and it depended on the situation. Basic maintenance is allowed. Problems occur when a non-conforming structure or a non-conforming use in an area is damaged. It depends on the percent of the damage and the extent of the damage, both in terms of the percent of the building and the percent of the value of the property. The decision is very complex. If one of the buildings on the R-3 property is damaged 100% by fire, they could not rebuild that building or obtain a variance to do that. It would be a use variance which is not permitted under North Carolina law. She reiterated staff concerns, the neighborhoods concern and the Planning & Zoning Commission's concerns.

Before Councilwoman Sitnick could finish her question "if there was something that the City could do to accommodate the obvious needs of Groce Funeral Home that would allow them in perpetuity, as long as they occupied it" Ms. Cogburn replied there was nothing the City could do.

Councilwoman Sitnick then asked is there no way that we can protect the rights of the funeral home to use their property as they see fit and still protect the neighborhood from having a zoning line on their back yard which is commercial highway. Obviously, the property is being used now without a problem. The funeral home must be good neighbors since there hasn't been any complaints until this rezoning request. Is there no way that we can find language in our provisions that would allow the funeral home to continue to operate as necessary and still maintain that buffer?

Ms. Cogburn replied that the only thing we might do, but would have to check to see if there might be any conflict with statutory provisions, is to amend the non-conforming section of the ordinance to allow for rebuilding of non-conforming structures and non-conforming uses even if they are 100% damaged. That amendment would have to apply to any business that was non-conforming.

Vice-Mayor Peterson suggested moving the zoning line to within 20 feet of the residential properties. This would make all the buildings be in the commercial highway zone.

Councilman Swicegood felt this property looked like it should be zoned commercial but was concerned that the Planning and Zoning Commission unanimously denied the rezoning request. He asked if the entire area was zoned commercial highway, how much of a buffer would

they be required to have. Ms. Cogburn said that for new construction, they would have to place a 20 foot buffer (or a 5 foot buffer with a 6 foot fence) on any piece of property that abuts a residential zone.

Mr. Bill Groce, Groce Funeral Home, urged Council to vote in favor of rezoning the split zoned lot commercial highway. He felt all the opposition was to the rezoning of 24 Tampa Avenue, not the split zoned lot.

Mr. Dennis Gallogher, 7 Rodgers Place, spoke against the split zoned lot and any rezoning that would bring commercial development to his back door.

Councilwoman Sitnick said the petition the Council received stated opposition for any portion of the property to be rezoned, not just 24 Tampa Avenue. Also, all but one of her phone calls were for any portion of the property.

Ms. Janie Ross, 5 Tampa Avenue, spoke against the split zoned lot rezoning because of possible future development. She felt they needed that R-3 buffer from any more commercial intrusion into their neighborhood.

Councilwoman Sitnick asked if there was no way to exempt that one portion for future repair or replacement, without changing all of the non-conforming portion of the ordinance, in order that we don't penalize a business in good standing? Is there really no way that we cannot exempt that one situation because of their suffering from a mistake made years ago and not penalize the neighborhood that has also bought their properties in good faith. Ms. Cogburn replied that doing so would constitute contract zoning which is illegal. She explained that the City can't take a situation and apply it to one lot - they have to apply like zoning to like properties throughout their jurisdiction.

Councilman Swicegood moved continue this public hearing until November 15, 1994, without further advertisement, in order to visit the property and talk to the Planning and Zoning Commission members about their decision. This motion was seconded by Councilwoman Field and carried unanimously.

City Attorney Slawter advised Council that the petition filed in opposition to the proposed rezoning does not appear sufficient to evoke the requirement that the rezoning be approved by 3/4's vote of the City Council rather than a simple majority vote.

Ms. Ross questioned if tabling this public hearing would allow property owners to file a protest petition?

City Attorney Slawter said that the law provides that the protest petition has to be on a specified form, which the petition is not, and is to be filed with the City Clerk at least two working days before the public hearing scheduled on a rezoning matter, which was not done in this case. He said that he was not aware of any specific provision in the law that states what occurs when there is a postponement of consideration but in his opinion it would now be too late to file a protest petition.

B. PUBLIC HEARING TO REZONING 2 MICHIGAN AVENUE AND 15 15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT

ORDINANCE NO. 2141 - ORDINANCE TO REZONE 2 MICHIGAN AVENUE AND 15 15-1/2 MICHIGAN AVENUE FROM CS COMMERCIAL SERVICE DISTRICT TO R-3 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:17 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transit Planner, said that this ordinance requests the rezoning of 2 Michigan Avenue and 15-15 1/2 Michigan Avenue from CS Commercial Service District to R-3 Medium Density Residential.

These two lots are directly adjacent to a residential neighborhood. One lot is currently being used as residential property and the other lot contains an abandoned three unit apartment which the owner wishes to renovate to a two unit apartment.

The City Planning staff and the Planning and Zoning Commission recommended the rezoning of these lots as petitioned.

Mayor Martin closed the public hearing at 5:18 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2141. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2141 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 293

C. PUBLIC HEARING TO ZONE BEAVERDAM RUN AREA TO R-2 RESIDENTIAL DISTRICT

ORDINANCE NO. 2142 - ORDINANCE TO ZONE BEAVERDAM RUN AREA TO R-2 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:19 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this ordinance will zone approximately 88.61 acres and encompasses the Beaverdam Run Condominiums development as well as five properties on Sunnyside Lane and one property on Lynn Cove Road.

The Planning staff and the Planning and Zoning Commission recommend that the entire area be zoned R-2 Low Density Residential for the following reasons:

- The R-1 zoning district does not allow multi-family development. Nor does it allow more than one residential unit per lot. An R-1 zoning would cause virtually all of the property to be non-conforming.

- R-2 is the most restrictive zoning district classification which allows condominiums and multiple residential units on a lot. This appeals to the residents of the area.

A lady who served as Secretary to the Beaverdam Community Council and on the Land Use Planning for Beaverdam wanted to make the Council aware that there is a density problem and the problem of Beaverdam Road being a two lane road.

Councilwoman Field said that she is a member of the Transportation Advisory Committee and that Beaverdam Road is on their agenda to be improved with the right-of-way that already exists.

Mayor Martin closed the public hearing at 5:32 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2142. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2142 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 295

D. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT

ORDINANCE NO. 2143 - ORDINANCE TO AMEND THE ZONING ORDINANCE TO ALLOW CARPET SALES AND SERVICE IN THE CG COMMERCIAL GENERAL DISTRICT

Mayor Martin opened the public hearing at 5:33 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this ordinance will amend the zoning ordinance to permit carpet sales and service as a permitted use in the CG Commercial General zoning district. It is a permitted use in all of the other commercial zoning districts. The Planning and Zoning Commission voted 5-2 to recommend the wording change.

Mr. Matteson tried to explain Councilwoman Field's concern about why individual retail uses were being added individually.

Councilwoman Sitnick briefed the Council on the Planning and Zoning Commission meeting regarding this matter.

Mr. Lowell Pearlman, President of Pearlman's Carpet, was present to answer any questions Council might have.

Mayor Martin closed the public hearing at 5:42 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2143. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2143 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 301

E. PUBLIC HEARING RELATIVE TO THE APPROVAL OF PENSION OBLIGATION FUNDING CERTIFICATES OF PARTICIPATION

RESOLUTION NO. 94-199 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING CONTRACT AND RELATED MATTERS

Mayor Martin opened the public hearing at 5:43 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Fisher, Finance Director, summarized the resolution approving the Installment Financing Contract and made a brief statement about the benefits expected to be derived by the City. He then answered various questions and clarified comments from Council.

Mayor Martin closed the public hearing at 5:52 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 94-199. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 90

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR MOUNTAIN CHATEAU SUBDIVISION

At the request of City staff, this item was removed from City Council consideration at this meeting.

B. FINAL PLAT APPROVAL FOR TOP OF TRAPPER'S RUN SUBDIVISION

Senior Planner Patty Joyce said that the Top of Trapper's Run Subdivision is a six lot subdivision on 2.57 acres zoned R02. It is located off Bear Knoll Road in the Trapper's Run Subdivision in Haw Creek.

The preliminary plat was approved by the Planning & Zoning Commission on September 2, 1992, and this approval was reaffirmed on August 3, 1994, subject to the receipt of a letter approving water availability. That letter was received on September 9, 1994.

The subdivision meets the requirements of the subdivision ordinance in that the major utilities are in place. However, upon final

inspection of the new road by the Public Works Department, there are a few minor improvements to be made to the pavement on the cul-de-sac Damage to heavy equipment on the new road has caused the road to require another one-inch of pavement. The raising and leveling of manholes will be required and the pavement is required to extend to the curb line.

The owner has covered the cost of these improvements through a letter of credit to the City in the amount of $1,500, this amount being approved by the Public Works Department.

The Planning Director and the City Attorney's Office has approved the subdivision plat.

Councilwoman Field moved for the final plat approval of Top of Trapper's Run Subdivision. This motion was seconded by Councilman Swicegood and carried unanimously.

C. RESOLUTION NO. 94-200 - RESOLUTION ADJUSTING RENTAL RATE STRUCTURE AND OPTIONAL PERSONNEL, EQUIPMENT AND UTILITY RATES FOR THE ASHEVILLE CIVIC CENTER FACILITIES

Civic Center Director Jim Scott said that this resolution will change the rates being charged for rental of facilities and for optional equipment, personnel, and utilities at the Asheville Civic Center.

These rates were unanimously approved by the Civic Center Commission at their September 19, 1994, meeting.

Vice-Mayor Peterson was pleased that the Civic Center is pursuing its prime objective of operating the Civic Center Complex without subsidies from the City's General Fund.

Councilwoman Field said that she has received several calls from people concerned about the non-profit sector. She asked Mr. Scott if he had some indication of any long term contracts being lost because of these rate changes. He responded that he did anticipate some cancellations.

In response to Councilwoman Field, Mr. Scott said that the rates did not run in the paper, however, approximately 15 groups that use the Civic Center were sent the proposed rates prior to the Civic Center Commission for their review.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-200. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 95

D. RESOLUTION NO. 94-201 - RESOLUTION CHANGING BOOKING POLICIES AT THE ASHEVILLE CIVIC CENTER FACILITIES

Civic Center Director Jim Scott said that this resolution will amend the policies and procedures used for booking events at the Asheville Civic Center.

These policies were unanimously approved by the Civic Center Commission at their September 19, 1994, meeting.

Upon inquiry of Councilwoman Field, Mr. Scott briefed the Council on how this policy differs from our existing policy.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman McClure moved for the adoption of Resolution No. 94-201. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 99

E. RESOLUTION NO. 94-202 - RESOLUTION AUTHORIZING AN AGREEMENT WITH JAMES L. WESTBROOK JR.

City Manager Farris said that this resolution will formalize the agreement between the City and James L. Westbrook Jr. as City Manager, in accordance with the term and conditions set forth in that agreement dated August 19, 1994.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-202. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 102

F. RESOLUTION NO. 94-203 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NON-PARTISAN ELECTIONS AND CALLING FOR A PUBLIC HEARING ON NOVEMBER 1, 1994

City Attorney Slawter said that this resolution of intent is to consider an ordinance amendment to the City Charter to provide for non-partisan elections by non-partisan primary and election. The adoption of this resolution is the first step that is required in order for Council to make such a change in the City Charter.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-203. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 103

G. RESOLUTION NO. 94-204 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF ASHEVILLE A CONTRACT AND ANY CHANGE ORDERS WITHIN THE BUDGETED AMOUNT WITH MOSER MAYER PHOENIX ASSOCIATES, P.A., FOR THE DESIGN AND ENGINEERING OF A NEW TRANSIT TRANSFER CENTER AND WITH GNA DESIGN ASSOCIATES INC. FOR SURVEYING SERVICES FOR THE NEW TRANSIT CENTER

City Attorney Slawter said that this resolution authorizes the execution of a contract and any change orders with Moser Mayer Phoenix Associates, P.A., for the design and engineering of a new transit transfer center and with GNA Design Associates Inc. for surveying services for the new transit center.

Mr. Slawter answered Councilman McClure's question about a pending legal matter, being assured that no money will be expended until the legal matter has been resolved.

Discussion arose when Councilman McClure inquired about if the firms are local firms. Transit Planner Carl Ownbey said that this firm is from Greensboro and explained that approximately 30 RFP's were sent out, an extensive review process was held and out of the four proposals received, two firms were from Asheville, one from Charlotte and one from Greensboro. The Greensboro firm was the most qualified.

Councilwoman Sitnick said that she was not versed on all of the legalities of due process, but anytime the City can utilize local talent for designs, engineering, implementation, contracting, sub-contracting, she felt it was a good thing to be a community based economy.

Councilwoman Field summarized the Mini-Brooks Act in North Carolina which says when you contract for design services you do not consider fee until after you have selected the person. Then a fee is negotiated. If you can't negotiate their fee into what you think is an appropriate fee, then you can then negotiate with the next person. The idea is that you get a qualification based selection. Also, she didn't think that the City of Asheville had any firms that have experience in doing transit facilities and that might have had some affect on the selection.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-204. This motion was seconded by Councilman Watts and carried unanimously.

Mr. Slawter answered Councilwoman Sitnick's inquiry about the language "Authorizing the Mayor to execute . . . any change orders within the budgeted amount" by explaining that it is standard language in all authorizations.

RESOLUTION BOOK NO. 22 - PAGE 106

H. RESOLUTION NO. 94-205 - RESOLUTION AUTHORIZING DESIGN DEVELOPMENT FOR PRITCHARD PARK IMPROVEMENTS

City Manager Farris said that this resolution will authorize the City Manager to expend of up to $30,000 for design development services for Pritchard Park improvements.

As discussed on September 27, the opportunity to create a major gateway to the City at Pritchard Park will be created by the relocation of the bus transfer point to Aston Street. The improvements will also be designed to increase the sense of security in and around the park.

The design development process will include additional participation by the public in refinement of the conceptual design. In addition, when the selection team is made up, it needs to be as inclusive as possible, including representatives from the Recreation Board, Quality Forward and the Tree and Greenway Commission which will work with the City Manager on the selection of a design and will serve as a resource team throughout the design development process.

It is estimated that the design development process will require a minimum of six months to complete.

Also, in connection with community participation and the funding plan for this park, the City has received a statement of intent by a large prominent corporation in the community to participate substantially in the improvement of this park. However, before they can go ahead and make a concrete commitment, they need to know what's going to be done and what's it going to cost.

Councilwoman Sitnick questioned if this development was covered by the Mini-Brooks Act. Councilwoman Field said that it was and that Asheville has some very good landscape architects in the community and on City staff.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-205. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 107

I. MOTION RELATIVE TO THREE ADDITIONAL POLICE CANINE TEAMS

Vice-Mayor Peterson moved to authorize the Police Department to purchase three additional canine units, in the amount of approximately $60,000, which funding is to come out of the Police Department's existing appropriation. If additional funding is required later in the year, the request will need to come back to the City Council for review. This motion was seconded by Councilman McClure and carried unanimously.

Councilwoman Sitnick thanked Vice-Mayor Peterson and Councilman Watts for having the foresight to spend this money in such a wise way.

J. ORDINANCE NO. 2144 - BUDGET AMENDMENT RELATIVE TO FUNDING CHANGES IN THE GENERAL ADMINISTRATION BUDGET

City Manager Farris said that this budget amendment provides funds for additional salary and benefit costs in the General Administration budget adopted in June. These adjustments total $85,133 which brings the total budget to $280,163 which is still below the funding level of this division from previous years.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2144. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2144 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 303

K. ORDINANCE NO. 2145 - BUDGET AMENDMENT RELATIVE TO LIGHT UP YOUR HOLIDAYS

City Manager Farris said that this budget amendment, in the amount of $5,000, will appropriate the amount agreed upon between the City and

the Arts Alliance to provide the staff support and logistical work needed to conduct the "Light Up Your Holidays" events. This amount will be paid to the Arts Alliance in three equal installments between now and January 1995. The revenues needed to support this appropriation will come from fund balance available in the Festivals Fund.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2145. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2145 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 305

L. ORDINANCE NO. 2146 - BUDGET AMENDMENT RELATIVE TO PARKING METERS IN DOWNTOWN ASHEVILLE

City Manager Farris said that this budget amendment, in the amount of $50,000, will appropriate the amount necessary to allow us to purchase the remainder of the parking meters needed in downtown. This amount will buy approximately 280 meters and poles. We will complete the installation with City crews. The revenues needed to support this appropriation will come from the parking receipts that we anticipate from these meters.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2146. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2146 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 307

M. ORDINANCE NO. 2147 - BUDGET AMENDMENT TO APPROPRIATE FEDERAL FUNDS FROM HUD THROUGH THE FAIR HOUSING ASSISTANCE PROGRAM

City Manager Farris said that this budget amendment, in the amount of $19,300, will appropriate the funds from HUD for the Fair Housing Assistance Program. This will be the eighth year of funding through this program. Grant funds received last year were $70,000. The decrease in funding is because the City has completed a two year period of capacity building funding. Funding for this year is based on case load processed during previous year. HUD provides $1,300 per fair housing complaint case processed by Asheville-Buncombe Community Relations. The funding represents $14,300 for 11 cases processed and $5,000 for mandatory training of staff. The program is administered under contract by the Asheville-Buncombe Community Relation Council which provides staff support to the Asheville-Buncombe Fair Housing Commission. The City Community Development Division serves as Lead Entity and monitors the program.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2147. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2147 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 309

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON SEPTEMBER 20 AND SEPTEMBER 27, 1994

B. RESOLUTION NO. 94-206 - RESOLUTION REAPPOINTING ROY HARRIS TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Summary: This resolution will reappoint Roy Harris to the Asheville-Buncombe Water Authority for an additional three year term, term to expire September 30, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 108

C. RESOLUTION NO. 94-207 - RESOLUTION APPOINTING SAMUEL CAMP, WANDA HAWTHORNE, JIM ORR AND BILL STEWART TO THE RECREATION BOARD FOR ASHEVILLE

Summary: The terms of Nancy Boland, Carolyn Tingle, Larry Harmon and Marvin Nockow, as members on the Recreation Board for Asheville, expired on June 30, 1994. This resolution will appoint Samuel Camp, Wanda Hawthorne, Jim Orr and Bill Stewart to three year terms respectfully, terms to expire June 30, 1997, or until their successors are appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 109

D. RESOLUTION NO. 94-108 - RESOLUTION AMENDING MEMBERSHIP ON THE RECREATION BOARD FOR ASHEVILLE

Summary: This resolution will change the membership on the Recreation Board for Asheville to add two ex-officio (non-voting) members to the Recreation Board. The resolution will appoint Nancy Boland and Charlie Bullman to serve three year terms respectfully, terms to expire June 30, 1997, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 110

E. RESOLUTION NO. 94-109 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL FOR THE FAIR HOUSING ASSISTANCE PROGRAM

Summary: See Item M above.

RESOLUTION BOOK NO. 22 - PAGE 111

Councilwoman Sitnick moved for the adoption of the consent agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. RESOLUTION NO. 94-210 - RESOLUTION TO ENTER INTO AN AGREEMENT WITH NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE PRIOR SERVICE CREDIT

City Manager Farris read the resolution to enter into an agreement with the North Carolina Local Governmental Employees' Retirement System to provide prior service credit. This resolution states that the City of Asheville elects to allow credit to all employees who were employed by the City of Asheville on January 1, 1980, on account of prior service to a unit of local government.

Councilwoman Field moved for the adoption of Resolution No. 94-210. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 112

B. APPROPRIATION FOR CHAMBER OF COMMERCE

Councilman Swicegood voiced concern over the $90,000 appropriation to the Asheville Area Chamber of Commerce. City Manager Farris was instructed to investigate Councilman Swicegood's concern of whether the money was to be appropriated without further consideration of the Council.

C. CLAIMS

City Manager Farris said that the following claims were received by the City of Asheville during the week of September 15-21, 1994: Claudine A. Hudson (Police), Melissa Whitmire (Police), Geraldine Whitmire (Police), Futon Designs (Streets), Sabrena Brown (Parking) and Keisha Williams (Police).

He said the following claims were received during the week of September 22-28, 1994: Lee Ponder (Water) and Joe Eckert (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:38 p.m.

William D. Roberts, Jr.
CITY CLERK

MAYOR

Tuesday - October 11, 1994 - 7:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; Interim City Manager William B. Farris; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

Councilman Watts gave the invocation.

GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on October 5, 1994:

GROUP DEVELOPMENT REAFFIRMATION OF TRINITY BAPTIST CHURCH ADDITIONS

Mr. Green said that this group development was originally approved by City Council in October of 1993. Since a building permit was not issued within one year of the approval date, the status of approval has expired. All conditions placed on the original approval of the project have been met. In addition, the Board of Adjustment granted a conditional use permit for the project in September of 1993.

On October 5, 1994, the Planning and Zoning Commission reaffirmed their recommendation of approval of the Trinity Baptist Church additions, with no conditions.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

INGLES MARKET ON SMOKY PARK HIGHWAY

Mr. Green said that at the Planning and Zoning Commission's meeting on October 5, 1994, they reviewed the site plan for a new 52,000 square foot Ingles grocery store to be located in the Asheville West Plaza Shopping Center located on Smoky Park Highway. The Commission recommended approval of the site plans with the following conditions: (1) receipt of letters approving sewer allocation and confirming adequate water pressure for fire protection; and (2) submittal of landscape plan meeting requirements of City ordinances.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

MOUNTAIN SPRING APARTMENTS

Mr. Green said that the Mountain Spring Apartments are low-income elderly and handicapped housing developments which will be located on three separate sites along Martin Luther King Jr. Drive.

At their October 5, 1994, meeting, the Planning and Zoning Commission unanimously recommended approval of all three group developments with certain conditions attached to each.

Mr. Joe Chandler, who spoke against the project at the Planning and Zoning Commission meeting, said that he went to Greenville to see the projects there. He was very pleased and impressed with the beautiful apartments and felt that Asheville would be fortunate to have these located here.

Mountain Spring Apartments located at Martin Luther King Jr. Drive and Mountain Street (Parcel 198)

The Zoning Ordinance provides for a reduction in the parking requirements for low/moderate income and elderly apartments. This reduction must be approved by City Council upon recommendation by the Planning and Zoning Commission. The developer indicates that their experience has shown that a one-to-one parking ratio for elderly housing is more than adequate to handle the parking demands.

Conditions imposed by Planning & Zoning Commission:

(1) Confirmation of water and sewer availability
(2) City Council approval of reduction in parking.

City Attorney Slawter said that, in his opinion, a public hearing by City Council would be required on this group development.

Councilwoman Sitnick moved to set a public hearing on the group development of Mountain Spring Apartments located at Martin Luther King Jr. Drive and Mountain Street for October 25, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Mountain Spring Apartments located at Martin Luther King Jr. Drive and Curve Street (Parcel 48)

The Zoning Ordinance provides for a reduction in the parking requirements for low/moderate income and elderly apartments. This reduction must be approved by City Council upon recommendation by the Planning and Zoning Commission. The developer indicates that their experience has shown that a one-to-one parking ratio for elderly housing is more than adequate to handle the parking demands.

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Mountain Spring Apartments located at Martin Luther King Jr. Drive and Lincoln Street (Parcels 144 and 145)

Douglas Company, the developer, is requesting a variance of the landscape requirements in order to allow a retaining wall to encroach

upon a 20 foot wide buffer along the south property line. Also the property consists of two separate tax lots which must be combined as a part of the project.

Conditions imposed by Planning & Zoning Commission:

(1) Confirmation of water and sewer availability
(2) Two lots must be combined
(3) City Council approval of variance request regarding encroachment of a retaining wall into the buffer

City Attorney Slawter said that, in his opinion, a public hearing by City Council would be required on this group development.

Councilwoman Sitnick moved to set a public hearing on the group development of Mountain Spring Apartments located at Martin Luther King Jr. Drive and Lincoln Street for October 25, 1994. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

PUBLIC HEARING RELATIVE TO AN ELECTED SCHOOL BOARD

Mayor Martin opened the public hearing at 7:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that this public hearing is for the purpose of receiving public comment on the issue of whether the City Council should request the North Carolina legislature to consider legislation providing for an elected City of Asheville School Board. The School Board is currently appointed by the City Council, as directed by legislation previously enacted by the North Carolina General Assembly. The City Council does not have authority to change that procedure and has requested public comments regarding whether the City Council should request that the General Assembly do so.

Mr. Bob Smith, 193 Tacoma Circle, said that his issue has always been accountability, responsibility and representation and he has always been an advocate of an elected school board, however, he didn't think you could get any more responsible than the current Board. His concern is either way the Council decides to go, they need to look at district representation. He also felt that politics would come into play with an elected Board.

Mr. Charles Worley, resident and citizen of Asheville, said that an elected school board has a lot of desirable features to it, e.g., it provides for accountability and responsiveness to the voters. However, he encouraged Council not to take any action that would lead to an elected school board at this time because consolidation is inevitable and we need to have school board members who will work to plan for that consolidation. To that end, he encouraged Council to appoint members to the school board, as those appointments come up, who are willing to look at consolidation with an open mind and for those people to make plans for the future if that eventuality does comes up.

Ms. Jamie Ross, 5 Tampa Avenue, and Education Chair for the League of Women Voters, said that the members of the League appreciated the Council making the appointment process open. She also thanked the School Board for changing its policy relative to having matters placed on their agenda. However, the League continues to support an elected school board, as they feel that is the most responsive board.

Mr. Hugh McCollum, 16 Deva Glen Road, felt that an appointed board is more suitable for Asheville since the Asheville City School System is a small single district and not divided by district lines and geography. He cited three reasons why an appointed board serves our school system best: (1) an appointed board attracts more qualified candidates; (2) an appointed board assures minority representation; and (3) an appointed board keeps politics out of education. Being a small system, he felt Council should continue to appoint the school board.

Ms. Susan Fisher, Asheville native and member of the Asheville School Board since March 1993, presented a statement to Council stating that she has strong ties with the League of Women Voters and realizes the League actively supports a position that encourages the appointment of women and minorities to boards and commissions. With that in mind, she presented three instances where election of school board members could prove detrimental to progressive board representation: (1) in any election, money is involved and elected people might be influenced by large money contributors by conforming to that particular family's value; (2) in a school system Asheville's size, an elected board runs the risk of eliminating promising African American candidates; and, (3) appointed boards has an autonomy that attracts better qualified superintendent, teaching and administrative candidates to their school systems. She also spoke favorably at the open process for the appointments of school board members.

Ms. Hazel Turner, member of the Asheville School Board, stated that an appointed board will best serve the interests of the children in the Asheville City School System.

Ms. Minnie Jones, concerned citizen, felt that the City should not have an elected school board. Speaking on behalf of minorities, she felt blacks would lose their representation on the board due to the amount of money required to run in an election.

Ms. Wanda Boyd, 412 River Ridge Drive, spoke in support of an appointed school board which she felt was better for the children and the community.

Mr. David Hillier, Chairman of the Asheville School Board, felt that because Asheville's school board was appointed, they were able to get a better quality of applicants for the superintendent position. He urged Council to continue with the appointment of members.

Dr. Wayne Trogdon, Superintendent of Asheville City Schools, spoke in support of the appointed school board by reinforcing three points: (1) Council has an opportunity to appoint citizens who would not normally be able to run for an election; (2) there is a broad range of talent to choose from; and (3) Council can ensure minority representation on the board. He felt this board puts children as their first priority.

In reply to Councilwoman Sitnick's question about what Dr. Trogdon felt about consolidation, he replied that if consolidation occurs, it needs to occur to move education forward and to make it better for children to learn and be successful. He hoped that decisions regarding consolidation are not made in the interest of politics or dollars, but in the interest of providing a better educational opportunities for the children.

Dr. Trogdon responded to questions related to how Asheville ranked in the overall school system.

Vice-Mayor Peterson would like to see the Asheville School Board meet jointly with the City Council approximately every three months in order to give the Council feedback on how our school system is doing. Dr. Trogdon was very receptive to meeting with the Council.

A teacher at Asheville High School felt that if Council decides to have an elected school board, all the population of Asheville would not be represented.

Ms. Marsha Bate, 84 North Liberty Street, felt that the interview process Council went through on the last school board appointments was good. She agreed with Vice-Mayor Peterson about the accountability of the School Board and would like to see the idea formalized.

Mr. Bob Brown stated that four years ago he obtain 856 signatures on a petition for an elected school board. He briefed Council on some problems he has encountered with the present school system and felt our system was below par. He felt the appointed board was not doing a good job and felt the Council should go to an elected board.

Mr. Clarence Benton spoke in support on the appointed school board. He felt this board provides for continuity and minority representation. He felt that even if the school system went to district representation, there aren't enough blacks in any one area to guarantee a win in a single district.

Ms. Carol Matthews, member of the Asheville School Board, 15 Lynwood Road, strongly supported an appointed school board. It gives the City Council the opportunity to appointed a balanced, diversed group. She felt that any citizen could request to be on the school board with no financial cost involved, unlike the election process.

Upon inquiry of Councilwoman Sitnick, Ms. Matthews stated that a half appointed-board and a half elected-board is a viable option.

Dr. Erby Oglesby, Member of the Asheville School Board, spoke in support of an appointed school board for minority representation.

Upon inquiry of Councilman Watts about statistics related to blacks being suspended at a high rate, Dr. Trogdon stated that he would gather that information and provide it to the Council.

Mr. Larry Linney, lifelong resident of Asheville, spoke in opposition of an elected school board because the electoral process is skewed. Until there are changed in the electoral process, he supported an appointed board.

Mr. Joe Chandler spoke against an elected school board. He felt there would be no black representative if there was an elected board. His concern is for the children in the City of Asheville.

Mr. Larry Holt, resident of the City of Asheville and employee of the Housing Authority, said that he had deep concerns for the young people that reside in the developments that the Housing Authority manages and maintains. They see education as the only opportunity these young people have to get out of these developments and become successful citizens in our society. The Housing Authority has a number of programs developed through the current school system that provides these opportunities for the young people. He spoke in favor of the appointed school board since it has been successful for the past 22 years and the board has the interest of the kids at heart. He urged Council to keep the appointed board to maintain balance.

Upon inquiry of Vice-Mayor Peterson, Mr. Holt explained the programs at the Housing Authority.

Mr. Calvin Hall, resident of the City of Asheville and graduate of Asheville High School, spoke in favor of the appointed school board.

Mr. James Cassara, teacher at Claxton Elementary School and local unit President of the North Carolina Association of Educators, said that the Association has not made an official position on this matter. However, they feel that whatever decision is made, it needs to be made very carefully and slowly because there are so many variables and consequences. The Association would like to have as much input as possible as it represents teachers. It would also be prudent to have input from other local learning units throughout the state.

Councilwoman Field suggested Council find out what's happening on a national level before any decision is made.

Councilman Watts said that he has heard favorable comments of the work of the Asheville school system.

Vice-Mayor Peterson commented about the turmoil of the school system a couple of years ago and wished Dr. Trogdon the best of luck in his position.

Councilwoman Sitnick said that one repeating comment she heard throughout the hearing was the diversity of representation that's required to provide the community with the proper attitude about education, not only having good teachers, but the attitude seems to be very important. She was grateful for the thoughtful comments, however, she was somewhat amazed at the lack of attendance at the hearing.

Ms. Minnie Jones commented that the lack of minorities present was because of the lack of transportation.

Mr. Bob Smith felt that Council should take this issue into the neighborhoods and felt sure there would be better participation.

Mr. James Cassara also said school board meetings are poorly attended and suggested Council bring the issue further into the community.

Ms. Marsha Bate felt that people in the community don't expect to hear a lot at meetings about the school board.

Mr. Larry Linney stated that, in his opinion, the public tends not to participate in decisions that particularly affect education.

Mayor Martin stated that Council does have good participation at some public hearings.

Ms. Jamie Ross felt that before any decision is made, it is real important for Council to hear how the public feels, like going to community centers, PTO's, etc.

Mayor Martin closed the public hearing at 8:31 p.m.

RESOLUTION NO. 94-211 - RESOLUTION TO ADOPT AN ECONOMIC DEVELOPMENT INCENTIVE POLICY

City Manager Farris stated that this resolution establishes an economic development incentive policy which is intended to stimulate

private sector investment, economic growth and job creation in the City. It establishes a consistent manner for the City's participation in the development of new or expanded business activity which will have a significant, positive effect on the economic health of the community and not have a negative impact on the quality of life or the community's environment. It is further intended that the City will provide such assistance in response to initiatives from the private sector to facilitate the completion of projects that would not otherwise go forward.

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-211. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 113

UNIFIED DEVELOPMENT ORDINANCE - WILLIAM B. FARRIS

Councilwoman Sitnick moved that the City contract with William B. Farris as the project consultant for the Asheville City Council on the Unified Development Ordinance for the purpose of review, analysis and recommendation to the City Council. It is further requested that Mr. Farris be as broad in his outreach into the community as possible, especially to the members of the community who have already participated in the process. This motion was seconded by Councilwoman Field and carried unanimously.

City Manager Farris clarified that the outline he presented to Council was based on the assumption that the work be done on the existing document. Also, he felt it was important to have the steering committee work along on this project so when it comes to Council for review, they will have the comfort of knowing it has been reviewed by them and they are in agreement with it.

SIDEWALKS IN OAKLEY/FAIRVIEW

City Manager Farris said that for a number of years the residents in the Oakley neighborhood have been requesting a sidewalk along Fairview Road from Merchant Street to Westview. This is due to the large number of pedestrians, especially children, who use this route. One of the top priorities of the neighborhood association has been to get these sidewalks installed.

He asked staff to prepare a proposal based on the neighborhood request. The cost for this project, including engineering, inspection and contingencies is $376,187. This estimate by the Engineering Department does not include acquisition of property easements. After talking with Mr. Mitchell from the neighborhood association, it is felt that the property owners will be interested in providing the necessary property at no charge to the City.

Upon request of Vice-Mayor Peterson about the areas around the school being done first, Mr. Farris said that the project could be a phased project.

Councilwoman Sitnick wanted to make sure that the sidewalk project was coordinated with any school renovation project.

Upon inquiry of Mayor Martin about the City being able to afford this project. Mr. Farris said that in terms of outstanding capital projects, the first priority would be the street and sidewalk program (contract 10 or 13) that has not been funded yet, and that this project should come after that.

City Manager Farris said that a number of complaints have been received by both the City and the Superintendent at Oakley school about traffic around the school. The Superintendent has sent him a note about the possibility of sharing in the cost of a traffic study out there. Part of the study that needs to be done can be done with the City staff (approximately $2,000 is the City's share) and since the City needs to be involved in this serious traffic problem, he would recommend that the City share in this cost of the study.

Upon inquiry of Councilman Watts about how long the project would take, Mr. Farris said that concrete work won't be able to begin until March of 1995 giving plenty of time for engineering and other detailed work to be done.

Councilman Swicegood wanted to make sure the City coordinated this project with any North Carolina Department of Transportation projects in the area.

Councilman McClure wanted the City to look into the possibility of using Powell Bill funds for this work.

Councilman McClure moved to authorize the City go ahead with the project to install sidewalks on Fairview Road and bring back a financial plan with how to fund this. This motion was seconded by Councilwoman Field and carried unanimously.

SIDEWALKS ON LEXINGTON AVENUE

City Manager Farris said that the section on Lexington Avenue from Walnut to Hiawassee Streets has been problematic for some time. There are numerous tripping hazards in the sidewalks that are in need of correction. Storm drainage is very poor. This summer the Water Department replaced numerous water lines along this block which resulted in much demolition. Southern Bell also did much work in the area. This provided an opportunity to correct deficiencies at a reduced cost.

There are property owners along the street who are active in renovating buildings who are interested in the project. Since the brick is intact along Walnut Street and part of this section of Lexington Avenue, the brick will be retained and extended where appropriate. Trees will be retained and, hopefully, at least five new trees will be planted, depending on location of utilities. Estimated cost for this project including engineering and contingencies is $131,547.

Councilwoman Field moved to authorize that this project be undertaken. This motion was seconded by Councilman Watts and carried unanimously.

PAY AND CLASSIFICATION STUDY

Councilwoman Field moved to authorize the City to proceed with receiving proposals to review the City's Pay and Classification Plan. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin adjourned the meeting at 9:07 p.m.

Marian F. Walcott, T
CITY CLERK

MAYOR

Tuesday - October 25, 1994 - 4:00 p.m.

Regular Meeting

City Council -
Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

County Commissioners -
Present: Chairman Dr. Gene Rainey; Commissioners Patsy R. Keever, C. Thomas Sobol, William H. Stanley, David W. Young; County Attorney Joe A. Connolly; County Manager William E. McElrath Jr.; and County Clerk Kathy Hughes

Absent: None

Buncombe County Chairman Gene Rainey gave the invocation.

JOINT MEETING OF THE ASHEVILLE CITY COUNCIL AND THE BUNCOMBE COUNTY BOARD OF COMMISSIONERS

Criminal Justice Information System ("CJIS")

Superior Court Judge Robert D. Lewis briefed the Council and Commissioners on the background of CJIS. He said the first step is to enter into an amended 1990 interlocal agreement. This agreement would not bind or commit either the City or the County to any specific expenditure. The need to upgrade the hardware and software is urgent. The present computer equipment does not have adequate computer capacity to handle the additional workload. The system is over capacity and we can't operate the jail detention center without a jail management module. Moreover the County will have trouble in completing the construction of the detention center until the necessary cables and connections are run. He urged Council to treat this as a priority item. He stressed the need for the fully integrated system.

Mayor Martin recognized the importance of CJIS and instructed the City Manager to research the issue as quickly as possible and work with the County Manager to see if a mutually acceptable interlocal agreement could be worked out.

Animal Control

County Manager Bill McElrath said the County had adopted a new animal control ordinance that provides that the City may come within the provisions of the county ordinance by mutual agreement with the County (interlocal agreement) and the adoption of an appropriate resolution permitting the ordinance to be applicable within the City. One provision in the ordinance is the protective and preventive measures wherein the Animal Control Enforcement Officer, following investigation of stalking, attempted attacks or minor bite cases, may order the owner to take certain preventive and protective measures for aggressive dogs. He hoped the City would explore the consolidation regarding animal control within the City and County.

City Attorney Bill Slawter stated that the County has provided the City with a copy of their new ordinance. He said that the City would review the ordinance and draft a similar one for Council's consideration.

Joint City/County Building

Mayor Martin suggested the City and County explore the possibility of a joint building in the parking lot at the intersection of Marjorie and Davidson Streets, which is owned jointly by the City and the County. He felt that perhaps the first two or three floors could be for parking, the Police Department could be housed on the next floor up and County offices could have the other two floors, with possibly a pedestrian bridge across Marjorie Street to the first floor level of the City Hall building.

It was the consensus to have a City staff person meet with County Planner Jon Creighton to see if this building would be a worthwhile project.

Similar Meeting Dates and Times

Councilwoman Sitnick discussed the possibility of coordinating our meetings so that people who desire to attend both meetings can, especially if we are going to begin conducting joint efforts to provide the necessary government that our community needs. The City has implemented a program of night community meetings so that people who work can attend evening meetings.

She said that she has approached the cable company to find out if the City can put together a package whereby students from Asheville High School, who have a magnificent recording studio, can video City Council meetings, acting as part of their internships, and broadcast those on Channel 10 so that members of the community can see our activity. She hoped that if the City can work that out perhaps the County Commissioners would consider such an endeavor and that would alleviate some of that same day/same time meeting problems. She said that with the complexity of our community growing on a daily basis and the desire on the part of our citizens to know what's going on, that this is a challenge that we can find a solution for.

Commissioner Keever and Councilwoman Field stated that there were indeed some complex issues that would need to be worked out.

Plan for Regular Joint Meetings

Commissioner Young moved to have a semi-annual joint City/County meeting. This motion was seconded by Commissioner Keever and carried unanimously.

Councilwoman Field moved to have a semi-annual joint City/County meeting. This motion was seconded by Councilman Watts and carried unanimously.

Commissioner Stanley moved to have the joint City/County meeting a night meeting. This motion was seconded by Commissioner Young and carried unanimously.

It was the consensus of the Council and Commissioners that future agendas be shorter and focused on major issues and that the agenda be set at least 30 days in advance of the meeting.

Consolidation Issues

The County Manager briefed all present about the parks and recreation consolidation study in progress by City staff, County staff and the Institute of Government ("IOG"). He said the IOG should have recommendations to the managers in early November.

He stated that a study conducted by DMG suggested that the County not consider consolidating with planning, law enforcement and purchasing. They did indicate that possible consolidations would be in building inspections, risk management and parks and recreation. He looked forward to working with the City in consolidating as long as the consolidation would benefit both bodies and the citizens of this County.

It was the consensus of those present to be pro-active rather than re-active to the school system consolidation legislation recently enacted by the General Assembly.

The County Manager explained to Councilwoman Sitnick about bulk purchasing.

Joint Minority Business Commission

Chairman Rainey said that the County Commissioners would discuss the possibility of a joint Minority Business Commission at their upcoming retreat.

County Youth Programs

Councilwoman Sitnick said that a lot of programs, activities and coordination is going on in both the City and the County regarding youth activities. She hoped the County shared the City's interest and commitment in finding a way commit the entire City and County community to looking at the needs of our young people. She said a list was compiled of individuals and organizations in the community who are working on issues involving young people and encouraged the County to add others as they see fit to the list. She explained the idea of a meeting of youth who could brainstorm their ideas and express their desires regarding youth activities so that at the end of the process they would feel some ownership of the solution. A second meeting of those on the list would be held in order to find out what programs are good, what programs are working, which programs are not working, and possible funding sources. She felt the need to create a community-wide commitment and dedication to preventing the problems that occur when there is a lack of a positive environment for young people to hang out in.

At the request of Chairman Rainey, Councilwoman Sitnick said that she would furnish her information on this idea to the County.

Participation in Economic Development

Chairman Rainey stated that even though the City decided not to financially participate in the Regional Economic Development Commission, in which the County funded $400,000 and the Chamber of Commerce funded $200,000, the County's door was still open to the City. He said that even though the City declined to participate the County would still like the City's informal input.

Vice-Mayor Peterson said that even though the City decided not to invest at this time, he wished the County the best of luck.

Mayor Martin said that they would explore the possibility of future funding, along with other ways to bring about economic development to our area.

Participation in the Civic Center

Mayor Martin said that at least 70-80% usage by the Civic Center is by County residents and felt that the County is not paying it's share of the expenses to operate the Civic Center. The City's request is that the County look at this and realize their obligation.

Commissioner Sobol said that even though the Colburn Mineral Museum and the Art Museum moved out of the Civic Center, the County is still paying the same amount of money in rental space to Pack Place. It was the County's hope that the City start making the Civic Center a self-supporting operation.

With the new Civic Center Director, steps are now being taken to make the Civic Center a self-supporting operation.

Chairman Rainey said that the Commissioners would discuss the request and get back with the City.

Flow Control and Recycling

The County Manager explained the County's landfill problems and asked that the City inform them of whether or not they will be involved with the County's flow control. They would like to present the City with a program that they will be able to buy into and cut out the liability that the City might have if their waste stream goes to an unlined landfill in South Carolina. County staff would like to sit down with City staff and iron out an interlocal agreement so we can do what is the best for all the citizens of this County.

County Attorney Connolly explained the importance of having a commitment from the cities, as to the solid waste they control, by entering into an interlocal agreement.

Mayor Martin instructed the City Manager to work with the County Manager in order to give the City Council some direction.

Joint City/County Page

Councilwoman Sitnick said that with the deletion of the CityPage from the City's budget this year, there is a real need to disseminate information to the public. She wondered if the County would be interested in a possible joint City/County Page.

Chairman Rainey suggested that the County's Public Information Officer work with the City to see if this project would be something that could be worked out for the benefit of both the City and County.

Tax Collection Rate

Upon inquiry of Councilman McClure as to what can the City do to help bring up the tax collection rate, Chairman Rainey said that the Commissioners have spent a lot of time on the issue of tax collection. There is a possible reorganization to the tax collector and tax assessor's office, however, he stressed that the tax collector position is a State position and the County Commissioners have no control over that. They are aware of the collection rate and are sensitive to the issue.

Councilwoman Sitnick moved that the City and County set as their goal to do everything that we can to stick to it and encourage people to pay their taxes, fines and bills.

Chairman Rainey suggested that an item on the next joint meeting agenda be the City's policy on annexation.

Mayor Martin thanked the County Commissioners for coming to this meeting and adjourned that portion of the meeting at 6:05 p.m.

PUBLIC HEARING - MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND MOUNTAIN STREET (Parcel 198)

PUBLIC HEARING - MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND CURVE STREET (Parcel 48)

PUBLIC HEARING - MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND LINCOLN STREET (Parcels 144 & 145)

Due to these three projects being similarly related, it was the consensus of Council to combine the public hearing into one.

Mayor Martin opened the public hearings at 6:08 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearings.

Mr. Tony Nicholson, Urban Planner, said that the Mountain Spring Apartments are low-income elderly and handicapped housing developments which will be located on three separate sites along Martin Luther King Jr. Drive.

At their October 5, 1994, meeting, the Planning and Zoning Commission unanimously recommended approval of all three group developments with certain conditions attached to each.

Mountain Spring Apartments located at Martin Luther King Jr. Drive and Mountain Street (Parcel 198)

The Zoning Ordinance provides for a reduction in the parking requirements for low/moderate income and elderly apartments. This reduction must be approved by City Council upon recommendation by the Planning and Zoning Commission. The developer indicates that their experience has shown that a one-to-one parking ratio for elderly housing is more than adequate to handle the parking demands.

Conditions imposed by Planning & Zoning Commission:

(1) Confirmation of water and sewer availability (now confirmed)
(2) City Council approval of reduction in parking.

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Douglas Company, the developer, is requesting a variance of the landscape requirements in order to allow a retaining wall to encroach upon a 20 foot wide buffer along the south property line. Also the property consists of two separate tax lots which must be combined as a part of the project.

Conditions imposed by Planning & Zoning Commission:

(1) Confirmation of water and sewer availability (now confirmed)
(2) Two lots must be combined
(3) City Council approval of variance request regarding encroachment of a retaining wall into the buffer

Ms. Mary Young, 18 Martin Luther King Jr. Drive, spoke against the projects. She cited that the areas are not large enough to accommodate the number of units, and people presently living in the area have to park on the street, thus showing the insufficient parking that already exists in the area. She felt the street was already "like an open highway" and didn't need additional traffic on it. She felt that the community does not need anymore housing complexes since it already has Mountainside Apartments, Woodberry Apartments, complex for the handicapped, etc.

A resident who lives in the immediate area spoke against the apartments. He was worried about fire protection and the depreciation of the homes in the area if the apartments were built. He also stressed that the area needed homes, not apartments.

Mr. Joe Chandler, President of the East End/Valley Street Community, who spoke against the project at the Planning and Zoning Commission meeting, said that he went to Greenville to see the projects built by the same developer there. He was very pleased and impressed with the beautiful apartments and felt that Asheville would be fortunate to have these located here.

Mr. Julius Maxwell, 12 Martin Luther King Jr. Drive, spoke in opposition to the project stating that the neighborhood is already congested. He urged Council to build houses there, not apartments.

Mr. William Young, Vice-President of the East End/Valley Street Community, spoke againsts the project and presented Council with a petition containing 59 signatures opposing the apartments. He read the petition "We the residents of the east end community question the placement of **another** subsidized housing complex. Presently, we house 1. the Mountainside Apts, 2. the Blue Ridge complex for handicapped individuals. 3. two (2) homeless shelters, hospitality house and the men's recovery house. 4. Lee Walker Heights is within .5 miles. 5. county jail and annex within .2 miles. Safety in conjunction with traffic flow on narrow streets, living space (property lines) honored, the saturation of real estate barriers seem not appropriate thoughts given for residents of our neighborhood. This neighborhood deserves the promise of Asheville Housing Authority to redevelop the East End Project into a community, not a dumping ground for low income dwellings.

Placement of single family homes would better aid the ideal of breaking the cycle of poverty through home ownership." He said that the Housing Authority (owners of the land) has said that the land where the apartments are to be constructed cannot be developed for private homes.

Ms. Carita White, 21 Martin Luther King Jr. Drive, spoke against the project stating that there was already too much traffic in the area.

Mr. Richard Harrison, 23 Woodley Avenue, was opposed to the project. He felt the area allotted for the apartments was too small and parking was insufficient. He felt the neighborhood has already paid their price to help the low income and the apartments should not be built.

Some discussion took place relative to the property owners being notified about the Planning and Zoning Commission meeting. Notices from the Planning Department were mailed on September 21 for the October 5 Planning and Zoning Commission meeting. Similarly, notices were mailed on October 18 for the October 25 City Council public hearing.

Mr. David Douglas, developer, urged Council to approve these projects. He went into detail about the apartments and their financing.

Councilwoman Sitnick asked Mr. Douglas if, when he began the negotiations with the Housing Authority, did he make any contact with the neighbors. From prior experience, it has been proven that when developers go into the neighborhood and explain their project at the outset rather than at the end, that often times problems can be worked out and a consensus can be reached. She felt the apartments look great, however, there is a history in our country of congested housing and even though the apartments look nice, they are still putting low income people in congested housing in an area that has probably already their fair share of congested low income housing. We have to establish that we're dealing with a situation here that has a bunch of black points against it already because historically it has been our policy to provide single family housing and the trend is to move away from these type units. We have a situation in Asheville where we are under the impression that there are many vacant housing opportunities that could easily be renovated to retrofit them for the elderly and handicapped. It's very hard for us to go along with this project when we are talking about $2.8 million and more intrusion into a neighborhood that is clearly opposed (as evidenced by the petition presented with 59 signatures). With that and the fact that there are already empty units in the community, she had a real hard time accepting a development that has gone this far without any contact with the community who is going to be impacted by it.

Mr. Douglas responded briefly and stated that he was told by Mr. Larry Holt of the Housing Authority that there was no opposition to the project.

Councilwoman Field commended the developer for trying to bring in low income housing for the elderly and handicapped into our area.

Councilman Watts asked the City Manager to look at the traffic problems mentioned on Martin Luther King Jr. Drive. He suggested marking the street for off-street parking.

Mr. Douglas answered Councilman McClure's questions as they related to private ownership of the apartments.

Vice-Mayor Peterson echoed Councilwoman Sitnick's concern about contacting the neighbors and he also spoke about his support of home ownership.

Councilwoman Sitnick said sometimes you have to consider not only what the units look like and what they're being used for, especially when it's this kind of public housing, but you also have to consider where it is being put. There are appropriate places and places that are not appropriate. That's one of the problems we're having with the West Asheville public housing project. We're not penalizing the developer here because we're having problems in West Asheville. She asked if there is a possibility that the developer meet with the neighborhood, meet with the 59 people who signed the petition and anyone else who wants to meet, and sit down and talk to these folks for as long as it takes to see if there is a compromise that can be worked out, a solution where everybody feels good.

Mr. Douglas responded to Councilwoman Sitnick's concerns and said that the area is properly zoned and they meet all the ordinance requirements except for the parking. As for the community, he would be willing to bus them to Greenville to see the same type housing they just built there. He felt sure, as Mr. Chandler does now after the developer took him to the Greenville site, that the neighbors would be pleased to have this development in their area. He stated that he was working against a state deadline of November 15 to spend the money.

Mayor Martin closed the public hearing at 7:18 p.m.

Councilwoman Field moved to approve the group development plan for Mountain Spring Apartments located on Martin Luther King Jr. Drive at Mountain Street, subject to the conditions imposed by the Planning and Zoning Commission. This motion was seconded by Mayor Martin and the motion died on a 3-4 vote, with Councilman Watts, Councilwoman Field and Mayor Martin voting "yea" and Councilmen McClure, Swicegood, Councilwoman Sitnick and Vice-Mayor Peterson voting "no".

Councilwoman Sitnick moved to deny the group development plan for Mountain Spring Apartments located on Martin Luther King Jr. Drive at Mountain Street for the following reason: there did not seem to be sufficient contact with the citizens in the neighborhood and for dialog with the Housing Authority and the developer. She said that this vote might be different if there was time to do that at this point and see if a consensus or compromise could be reached. This motion was seconded by Councilman Swicegood.

Councilman McClure moved to amend the motion to include that the denial is further due to insufficient parking being proposed.

Mr. Douglas asked if there was anything he could do at this stage to get the project back on track. He asked the neighbors present if they would be willing to go to Greenville with him to see the apartments just built. Neighbors in the area responded that they would not travel to Greenville.

Councilwoman Sitnick said that this developer should not be penalized because of what seems to be a major breakdown in communication

between the Housing Authority and Mr. Douglas, and a major breakdown in communication between Mr. Douglas and the people he talked to about the feelings of the neighborhood and she would like to suggest that before we vote on this, because this Council is committed to provide affordable housing, there is no doubt that elderly and handicapped housing have a better track record, but the problem here is that we have a bunch of citizens who - is there a possibility that instead of taking people to Greenville that you have a meeting with all of the members of this neighborhood association as soon as possible and put that meeting together and come back to the Council as soon as possible and let us know. I would be willing and I think the Council would be willing, to call an emergency meeting of this Council to vote on this to accommodate the whole issue of the November 15 deadline. I think the neighbors were not handled properly and I think the developer was not handled properly. The Council needs to sit down and have a major worksession about everything that has to do with the Housing Authority, with housing and our responsibility in this community.

When Mr. Douglas asked when he could meet with the neighborhood association, Mr. Young stated that they would not be able to meet until Saturday. Mr. Young stated that he would talk to the group and they may or may not want to meet with Mr. Douglas.

Councilwoman Sitnick felt that one of the reasons the neighbors are against the project is because they haven't been give the opportunity for dialog. If nothing can be worked out, then nothing is lost, but if something can be worked out, then everybody will win. The community will win, the people who need the housing will win and the developer will win.

Councilwoman Sitnick withdrew her motion and requested that a meeting take place between the neighborhood and the developer. Councilman Swicegood withdrew his second.

Councilman McClure withdrew his motion to amend Councilwoman Sitnick's motion relative to insufficient parking.

Councilwoman Sitnick then moved to re-open the public hearing. This motion was seconded by Councilwoman Field and carried unanimously.

Mayor Martin re-opened the public hearing at 7:30 p.m.

Vice-Mayor Peterson moved to reconsider approval of this group development. This motion was seconded by Councilman McClure and carried unanimously.

Vice-Mayor Peterson moved to continue the public hearings until November 1, 1994, without further advertisement, in order to give the developer and the neighborhood sufficient time to meet. This motion was seconded by Councilman McClure and carried unanimously.

RALPH BISHOP

Mr. Ralph Bishop commended on the Asheville Police Department and laws in North Carolina relative to gambling.

Mayor Martin adjourned the public hearing at 7:36 p.m.

William E. Holcomb, Jr.
CITY CLERK

MAYOR

Tuesday - November 1, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF BETTY GIBBS

Mayor Martin recognized Ms. Betty Gibbs who has been named Teacher of the Year for the second time in the Asheville City Schools. Councilman Watts read the certificate and presented it to her.

B. RESOLUTION NO. 94-212 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE STEPHEN EVANS

City Manager Westbrook read the resolution stating that Stephen Evans has been an employee for 14-1/2 years and has requested retirement from his position as Sergeant in the Asheville Police Department. He expressed City Council's appreciation to Steve for his service to the City of Asheville and its citizens.

Resolution No. 94-212 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 117

C. RESOLUTION NO. 94-213 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE CHARLES CARVER

City Manager Westbrook read the resolution stating that Charles Carver has been an employee for almost 30 years and has requested retirement from his position as Line Maintenance Worker I in the Water Resource Department. He expressed City Council's appreciation to Charles for his service to the City of Asheville and its citizens.

Resolution No. 94-213 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 118

D. RIVERLINK - FRENCH BROAD RIVER PARK

Ms. Karen Cragnolin, Executive Director of RiverLink, presented the City Council with a check in the amount of $100,000 from the Janirve Foundation for the new French Broad River Park. She briefed the Council on the donations received to date and what was purchased with those donations.

On behalf of the City Council, Mayor Martin thanked RiverLink for the generous donation.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO NONPARTISAN ELECTIONS

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that on October 4, 1994, the City Council adopted a resolution scheduling a public hearing for November 1, 1994, on the issue of nonpartisan elections. Of the three types of nonpartisan election from which the Council may choose under State law, the Council decided to proceed with consideration of the "nonpartisan primary and election method." This method would provide for a primary to be conducted on the fourth Tuesday before the election, with the election to be conducted on the Tuesday after the first Monday in November. The voting would be as follows:

a. Mayor: A primary would be required if there are more than two candidates. The top two candidates in the primary are nominated and placed on the November ballot. The person receiving the highest number of votes in November is elected.

b. Council Seats: A primary is conducted if there are more than twelve candidates. The twelve candidates receiving the highest number of votes in the primary are nominated and placed on the November ballot. The six candidates receiving the highest number of votes in the November election are elected.

The provisions of the General Statutes which authorize the Council to amend the City Charter to make the change to nonpartisan elections provide that the ordinance making the change may be adopted not earlier than the next regular meeting of the Council after the public hearing and not later than sixty days after the public hearing. There is, therefore, no action required to be taken by the Council following this public hearing. The ordinance making the amendment will be placed on the next Council agenda for consideration. If the Charter is so amended by the Council, the amendment may be effective upon adoption of the ordinance or the Council may submit the question to the voters by referendum. If the Council should decide to submit the issue to the voters, a date for an election should be scheduled by the adoption of a resolution on the same date as the adoption of the ordinance. In the event that the Council adopts the ordinance making the Charter amendments but does not schedule a referendum, a referendum may be called for upon the submission of a petition signed by at least 10% of the registered voters, or 5,000 voters, whichever is less. Any such petition would have to be filed within thirty days after publication of the notice of adoption of the ordinance.

Mayor Margin felt nonpartisan elections was a good idea and suggested putting it on the ballot for the next election, similar to the item regarding four year staggered terms.

Councilwoman Sitnick said she would not mind putting this question to the voters. She didn't have a problem with nonpartisan elections.

She also didn't think that party politics has anything to do with City government nor does she think it should. She said, however, think that there are some philosophical differences in different parties and some citizens have expressed to her that they like to know what those philosophical differences are in the way a person approaches government - not necessarily that it binds a person to a particular decision, it's just a matter of the way a person goes about determining the type of government that that person performs. She thought that putting the question to the citizens might help the Council determine whether the citizens want to know about that basic philosophical difference.

Councilman McClure didn't remember if the four year staggered term issue came up throughout the campaign. He did, however, remember the issue of nonpartisan elections. Mayor Martin stated that he brought the staggered term issue up.

Councilman Watts hoped that this could be a decision of the Council, without putting it on the ballot.

Mr. Bob Long Jr. spoke in favor of the nonpartisan primary and election. He felt it would allow all citizens, including the unaffiliated, to fully participate and take a full part in choosing the leadership of our City.

Mr. Doug Thrash also spoke in favor of the nonpartisan elections. He felt issues confronting the City seldom reflect the issues confronting major parties, therefore, to confuse the votes with the party identification is maybe not in the best interest of City issues. He spoke against staggered terms.

Mr. Gene Ellison didn't have any problems with nonpartisan elections, however, he felt there was a greater issue and some safeguards that need to be taken. He felt that if Council was considering staggered terms, they needed consider a combined district and at large election. He urged Council that before a decision is made to go nonpartisan, that they look at the other cities who have gone that route.

Mr. Lewis Clay spoke in favor of nonpartisan elections and congratulated Vice-Mayor Peterson for bring this issue to the Council.

Mr. Jerry Sternberg also spoke in favor of nonpartisan elections.

Mr. Tom Thrash endorsed nonpartisan elections.

Mayor Martin closed the public hearing at 4:32 p.m.

Mayor Martin said that the ordinance making the amendment will be placed on the November 15, 1994, Council agenda for consideration.

B. CONTINUATION OF PUBLIC HEARINGS - MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND MOUNTAIN STREET (Parcel 198); MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND CURVE STREET (Parcel 48); and MOUNTAIN SPRING APARTMENTS LOCATED AT MARTIN LUTHER KING JR. DRIVE AND LINCOLN STREET (Parcels 144 & 145)

Due to these three projects being similarly related, the public hearings were opened on October 25, 1994, and continued until this date.

Mr. Gene Ellison, attorney representing Douglas Management Company, showed a brief video and slide presentation concerning the projects and stated five essential reasons for supporting the elderly housing project:

Elderly Housing - replacing lost housing and allowing elderly persons to remain in their own neighborhood; 44 units; 95% elderly and 5% handicapped

Jobs - permanent resident manager and maintenance engineer to service the development. As many as 200 workers in the areas of plumbing, electricians, brick masons, concrete and general laborers. Developer will work with the City's Minority Business Coordinator.

Economic Development - improvements to undeveloped land; $2.4 million project

Neighborhood Agreement - agreements in writing - one with the Housing Authority and one with the neighborhood association and the developer

Deed Restrictions - 30 years restricted for elderly housing. In addition restrictive covenants could require any change beyond that be with the approval of the neighborhood association - require neighborhood association approval prior to any changes.

He reiterated that this is an opportunity to (1) provide quality housing for senior citizens in the own neighborhood; (2) utilize an excellent location considering the surroundings, the bus line and being near downtown; (3) use of the neighborhood association as a watchdog; (4) supply economic development immediately; and (5) create jobs immediately for over 200 people. He felt this was a win-win situation for the entire community and urged Council to approve the projects.

Upon inquiry of Councilwoman Sitnick about the screening process, Mr. Douglas, Developer, stated that his process consists of a standard credit check, a criminal check, and a standard household apartment application.

The following persons spoke in support of the projects for various reasons, including, but not limited to: good security in apartments, easy access to downtown area for the elderly and handicapped, apartments on a bus route, additional jobs the project would create, need for elderly and handicapped housing, low income people should not be treated differently than higher income people in the location of their housing, shortage of decent and affordable rental housing is most pressing,

Mr. Jim McCulley, retired Counselor for the Buncombe County Schools
Mr. Joe Chandler, President of the East End/Valley Street Community
Mr. Tony Sayer, speaking on behalf of the Affordable Housing Coalition
Mr. Bob Smith, Asheville-Buncombe Community Relations Council
Mr. James A. Barrett, Attorney and Executive Director of Pisgah Legal Services
Ms. Bernadette Thompson, Independent Living Counselor at N.C. Division of Vocational Rehabilitation Services

Mr. William Young, Vice-President of the East End/Valley Street Community, spoke in opposition of the project. He said that at the community meeting with the developer on October 30, which was held in accordance to Council's wishes, out of the 27 people who were able to vote, one voted in favor of the project leaving 26 voting against it. He felt the neighborhood had enough apartment complexes and they are trying to get single family homes built. He reminded Council of the petition he presented on October 25 with 59 signatures on it opposing the project.

Upon inquiry of Councilman Watts about the number of people in the neighborhood association, Mr. Young stated that there were approximately 150 votes.

Mr. David Jones, Executive Director of the Housing Authority, spoke in support of the project that began over 12 years ago with the then-neighborhood putting together a redevelopment plan for that section.

When Councilwoman Sitnick asked about the handicapped units, Mr. Douglas responded that a handicapped person could occupy any of the units.

Mr. Halliburton, resident in the affected community, and Ms. Tabby Mpofu, 44 Miller Street, spoke against the project stating that the neighborhood wants single family houses.

Mr. Lawrence Gilliam, employee of the Housing Authority, explained that crime is everywhere, not only in public housing.

Mayor Martin closed the public hearing at 5:20 p.m.

Vice-Mayor Peterson stated that his original concern about the project was that the neighborhood was not contacted about the development and thus, their concerns not taken into consideration. He felt that after looking at all the safety features and the information as a whole, he could now feel comfortable in supporting the projects.

Planning Director Julia Cogburn explained the group development process for Councilman McClure.

Councilwoman Sitnick stated that she attended the developer/community meeting and assured everyone that this issue has been a real gut-wrencher for her. "There's a vast gap of between having opinions and making decisions. There's validity on the part of everybody who has participated in this process starting ten years ago until now. The meeting was a very sad event for me especially since I was the one who requested that the developer meet with the neighbors and with the Housing Authority in order to, at least, be able to communicate concerns and see if some kind of compromise and collaboration was possible. I want to thank all of the neighbors who took 3-1/2 hours of their Sunday and the members of the Housing Authority and Mr. Douglas for being there. I would like to say that I believe that the reason Mr. Douglas brought the members of the South Carolina apartment units up here was for the very reason that Mr. Halliburton mentioned earlier and that was, you can look at a slick video with nice music in the background and get one picture, but if you have an opportunity to speak to the people who are living in that development, you have an opportunity to question them about the realities of living there. Unfortunately that didn't happen. I understand why. There is a lot of

frustration, there is a lot of anger, there is a feeling of being not brought to the table for many years even though this was approved ten or how many years ago, the folks living in that neighborhood now feel that they were not given the opportunity to have a say so. They were not given any sense of control although I agree with Mr. Barrett from the Pisgah Legal Services that neighborhoods should not necessarily have veto power. We have to look at the big picture and we have to look at the community good. I would like to say that not everybody wants to live in single family houses and not everybody wants to live in apartments and it's the job of a municipality to provide a diverse number of living arrangements for its citizens. I would like to say that while it's true that we need some fundamental reform in how we provide affordable, decent safe housing for the citizens who are less fortunate, we don't have that fundamental reform from the top yet where our federal tax dollars are spent. In the meantime we have to provide housing for those in our community who need it. These units are one bedroom and they are for people 62 years and above. All of the legal processes having to do with this development as they went along over these years have been met and approved, from permitting to zoning to licensing to land purchasing. The only part that the Housing Authority has in this development is they own the land and this City Council on June 7 passed a resolution allowing the Housing Authority to accept bids on this land. I understand some of the frustration that the neighbors have with the Housing Authority and the fact that they did not be brought in as part of the dialog process. But this is a private development just as many developments are in our community, single-family, condominium, townhouse, just as many low income and high income developments are in our community. This is the first time I've had so much conflict in making a decision on anything because I understand the frustration but I also understand the need. I also read the United Way Needs Assessment Report that states "the number one priority in our community is providing safe, decent affordable housing to our citizens." I think if my mother, who is lucky enough to have me to take care of her, who didn't have a whole lot of money, and if she hadn't she would not have been happy in a house - she would have wanted to have lived in this kind of a development surrounded by folks who are her age. I can't let the anger and frustration and the personal problems going on in the neighborhood direct my decision on this. If Mr. Douglas doesn't do this, as has been pointed out, somebody will, maybe the Housing Authority or another developer. This is going to be a development with private management, private maintenance, private security, private enforcement, it's going to be responsible and dignified housing by a developer who has a sterling and superior reputation. It's not perfect, the process was not perfect, the Housing Authority has played a part in this that the neighbors are upset with, but I would urge my fellow City Councilmembers not to throw the baby out with the bath water. If we can't vote for this private, safe, decent, affordable housing development for the elderly then I don't know what we'll ever be able to vote for and I'm going to support it. I would like to just tell you the numbers of Section 8 houses in the different sections of this City so that you are all aware: Western part of City - 270 Section 8 houses; North end - 162; East end - 258; and the South side - 94; for a total of 784 Section 8 houses that are operated by the Housing Authority. The perception that everything is in one place or another is not quite true.

Councilman Watts moved to approve the group development of Mountain Spring Apartments located at the corner of Martin Luther King Jr. Drive and Mountain Street, subject to the conditions imposed by the Planning and Zoning Commission, which includes the approval of reduction in parking. This motion was seconded by Councilwoman Field and carried unanimously.

Councilman Watts moved to approve the group development of Mountain Spring Apartments located at the corner f Martin Luther King Jr. Drive and Curve Street, subject to the conditions imposed by the Planning and Zoning Commission, which includes the approval of reduction in parking. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Field moved to approve the variance request regarding encroachment of a retaining wall into the required landscaping area. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Field moved to approve the group development of Mountain Spring Apartments located at the corner of Martin Luther King Jr. Drive and Lincoln Street, subject to the conditions imposed by the Planning and Zoning Commission. This motion was seconded by Councilman Swicegood and carried unanimously.

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF A PUBLIC HOUSING PROJECT OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE LOCATED AT THE CORNER OF VIRGINIA AND BROTHERTON AVENUES

Mayor Martin said that this public hearing was held on September 27, 1994.

Mr. Gerald Green, Senior Planner, stated that at the Planning and Zoning Commission's meeting on July 6, 1994, the Commission voted 4-3 to recommend approval of the proposed 28 unit public housing project to be located on Virginia Avenue at Brotherton Avenue. The following four conditions were attached to the approval:

1. The un-opened rights-of-way must be closed prior to the issuance of building permit(s);
2. Driveway permits must be obtained for the connections of the driveways;
3. Sidewalks or pedestrian paths shall be provided within the development to connect each building with other buildings in the development and to provide a connection to the street; and
4. Incorporate recommendations of the traffic impact analysis as they apply to the development.

The Commission also recommended denial of the request for a reduction in the required two parking spaces per unit for off-street parking.

The Housing Authority has provided a revised plan which shows sidewalks throughout the development with access onto Virginia and Brotherton Avenues. They have increased the number of parking spaces to provide two spaces per unit plus 5 spaces for a community building which is located on the front portion of the development. The development will consist of 4 duplex buildings and the community building having access off Virginia Avenue. One 4-duplex building and 2 8-unit buildings will have access off Brotherton Avenue, for a total of 28 units.

One major concern was the water system in the area and its ability to provide adequate fire flow, adequate pressure to provide the fire protection for the area. A report from Water Department states that

they are anticipating an improvement to the 6" line on Hudson Street. This improvement "may" improve fire flows on the proposed site. The actual amount of improvement cannot be determined until that line is in because of other problems which may exist in the line on Virginia Avenue. The Fire Department has provided options to the Housing Authority with regard to meeting the fire requirements. Those options include adding individual sprinklers to the development; constructing the development as either duplexes or single-families which would require a lesser fire flow; or some combination of those alternatives.

Another concern was the street system. The City's Traffic Engineer has looked at the traffic in the area of the project site and has stated that based on his counts in that area and his projection based on the proposed development that he recommends no improvements to the street system in the area and has stated that the street system can accommodate the increased traffic. Residents of the neighborhood did a traffic count on the Virginia Avenue near its intersection with Haywood Road and found significantly higher traffic counts than in the area of the proposed development. The traffic generated by the development would have to access the site in all likelihood from Haywood Road, so the entire street would be impacted by the proposed development.

The Housing Authority has provided the City Council with options, all of which have not been reviewed by the Planning staff or the Planning and Zoning Commission ("P&Z Commission").

The Housing Authority's first option would consist of a total of 24 units, a reduction of 4 units. They would replace the 8 unit buildings with 4 unit garden apartments. The upper level would consist of 1 1 bedroom and 1 2 bedroom garden apartments. The lower level would consist of 1-1 bedroom and 1-2 bedroom garden apartments. It would add handicapped units as suggested at one of the meetings that the City Council and the Housing Authority held. The breakdown would be ~ 6 1-bedroom units, 2 1-bedroom handicapped units, 12 2-bedroom units, and 4 2-bedroom handicapped units for a total of 24 units. There would be no 3-bedroom units in this proposal. Once again, this has not been reviewed by the Planning staff or the P&Z Commission.

The Housing Authority has a second option calls for a total of 20 units, a reduction of 8 units from the proposal originally presented. They would re-design the all of the buildings to be duplex units, they would add handicapped units with 50% of the units being handicapped accessible. The breakdown would be 10 2-bedroom handicapped units and 10 2-bedroom units, for a total of 20 units. There would be 6 duplex units accessing from Brotherton Avenue with the remaining units accessing from Virginia Avenue. This too has not been reviewed by the Planning staff or the P&Z Commission.

The Housing Authority also has a third option consisting of 13 single family units, 4 duplexes for the handicapped and 4 duplexes for a total of 21 units, all accessing from Virginia Avenue. This option would require the Housing Authority to purchase an additional two acres of land which the Housing Authority does not own. This too has not been reviewed by the Planning staff or the P&Z Commission.

Mayor Martin asked the City Attorney whether if the Housing Authority presented for consideration plans other than those previously reviewed by the P&Z Commission, could the City Council give final consideration to those plans or whether they must be remanded to the P&Z

Commission for review. City Attorney Slawter stated that Section 30-6-2 of the City Code authorizes the City Council to approve the application as submitted to the P&Z Commission or with modifications or conditions. He stated that if the modifications created more of an impact upon the community than the original plan that the matter should be remanded to the P&Z Commission. But, if the modifications resulted in a lesser impact remand should not be required, although remand would still be appropriate if the Council chose to do so.

Upon inquiry of Councilwoman Field about a possible conflict of interest since the firm she works for is doing work for the Housing Authority, City Attorney Slawter said that the statutory provisions not only authorizes, but requires, that City Council members vote on all matters that come before the Council except in two instances - 1) when your personal conduct is at issue and 2) where your own financial gain is involved. In his legal opinion, she did not have a conflict of interest. However, if the Council felt there was a conflict, by majority vote, they could excuse Councilwoman Field from participation in the matter.

Councilwoman Field felt that there might be an appearance of a conflict of interest.

Councilman Swicegood said that if Councilwoman Field felt there was a conflict of interest on this, he had no problem in excusing her. However, there might also be an appearance of a conflict with her being on the subcommittee that appropriates the Community Development Block Grant monies. He felt she might want to step down from the subcommittee.

Councilwoman Field said that she would ask to be taken off of that subcommittee.

Councilwoman Sitnick moved to excuse Councilwoman Field from voting on this issue. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Mayor Martin voting "no".

Councilman Swicegood questioned if the development was not approved would the improvements to the water system still take place. Mr. Green responded that they would.

Vice-Mayor Peterson stated some concern on the reports from the Water Department and Traffic Engineering Division.

Councilwoman Sitnick said that she would like to address the issue of the water flow. First of all about the traffic, I find it interesting that we have been dealing with this West Asheville project for quite some time and I'm disappointed that we were not able to get the traffic study numbers here for today. I also want to point out that at least five neighbors that I spoke to personally told me that Fridays between 7:00 a.m. and 7:00 p.m. would be a great time to assess the traffic conditions and I don't believe that that was done. I realize that the Traffic Engineering Division can't accommodate the hourly requests by each individual neighborhood but this is such a controversial issue that I think that perhaps that accommodation could have been made. I would like to point out a couple of things. A memorandum that was sent to Council by the Director of the Water Department Mike Holcombe states as follows: "This area of West Asheville is included in the current fiscal year's annual distribution system improvements project. Specifically there will be an installation

of a 6" water line on Hudson Street. This new line will provide an additional 6" feed to Virginia Avenue from where the subject project current receives water. This will improve both water flows and pressures in some measure to the project." I'm not a lawyer but "in some measure" is very vague. I would also point out that the computer program in the Water Department is not designed to analyze pipes less than 8" in diameter and so providing any kind of accurate reflection on water flow would be rather difficult. I would also like to point out that at the public hearing we had at the Civic Center on September 27, we received from the Fire Marshal an explanation of fire flow and water pressure and psi's and all of that and at 1:40 p.m. today I had a conversation with Mike Holcombe of the Water Department who pointed out to me that at this time and in consideration of the fact that the 6" lines that are being laid now will only improve the flow in some measure that there is no guarantee that we would be able to accommodate 500 gallons per minute and a 20 psi residual pressure even with the new lines. I just wanted to point that out.

At the request of Councilman Watts, Mr. David Jones, Executive Director of the Housing Authority, answered various questions concerning the Eastview Home Condominiums if this West Asheville project was not built. He summarized that the grant for the West Asheville housing project is based on one to one replacement housing.

Mr. Jones responded to financial information requested by Councilman McClure and explained about how grants differ.

Councilwoman Sitnick questioned Mr. Jones about other properties the Housing Authority owned. He responded that they do own property in various areas in the City but a lot of those properties are not buildable lots.

Several questions were raised by Vice-Mayor Peterson in which Mr. Jones was unable to respond to because he did not have the information available at that time. Mr. Jones stated, however, that he would be glad to furnish whatever information Council wanted to them.

At Mayor Martin's request, Mr. Jones said his recommendation to Council would be to approve the third option. Since the neighborhood and the City Council asked the Housing Authority to come back with a plan with more single family units. He reiterated that the third option has 13 single family units, 4 duplexes for the handicapped and 4 duplexes for a total of 21 units. The Housing Authority will purchase the additional two acres.

Mr. Jones answered questions from Councilman Swicegood relative to elevations in the project particularly at the end of the cul-de-sac.

When Councilman Watts stated his concern about water pressure, Mr. Mike Holcombe, Director of Water Resources, passed out a detailed water map of this area in question. He said that this water line improvement on Hudson Street is an upgrade of an existing 2" line to a 6" line. It's reasonable to assume that by replacing this 2" with a 6", you're going to provide an additional amount of water. This may be a case where expectations exceed reality, because there is no way anyone can translate gpm or psi's would be going up to a specific amount. He apologized if that sounded vague. In short, there will be some improvement in that situation, but at this point he could not say if it's going to be major or marginal.

Councilwoman Sitnick said the Affordable Housing Coalition, in its own resolution, refers to strong opposition to holding affordable housing developments to a higher standard than non-affordable housing developments or commercial developments. But I would think that we must least hold them to the same standards. The Coalition in its fight for the minimum Housing Code, especially regarding fires, is a good fight. It depletes the affordable housing stock at a faster rate than anything else. Fires in part can be avoided by having a good strong stringently enforced minimum Housing Code but fires need water to be put out if they occur.

Fire Chief John Rukavina said that standards have been developed for water flow expectations at a construction site. Single family dwelling expectation is a minimum flow of 500 gallons per minute at 20 pounds residual pressure. That means when a hydrant is open water must be able to flow 500 gallons of water a minute and if you opened a second hydrant on the system, there's an extra 20 pounds pressure left, so that a fire truck can use that water effectively. Based on what Mr. Holcombe has told Council, the Fire Department would have the same difficulty he has in that it's difficult to say what the improvement in water supply would be based on system improvements. My understanding is that the Housing Authority has retained an engineer that is working on proposals in this area. We have not seen them yet, although we have been in contact with this man so that when he's ready to bring us information, we are ready to give it the best assessment we can. If you are talking about something larger than a single family dwelling, then our fire flow expectations start at 1,000 gallons per minute. Although what we have done in dealing with situations where reality dictates that there won't be an immediate improvement of the water supply, we will allow some offset through an internal sprinkler system. If the water supply is not even at the 500 gallon per minute level, then it's difficult for us to make that calculation because unless we have some engineered sprinklered planning done, it's impossible to say if what water is there would even support a sprinkler system. It is possible to find answers to those questions. One way to approach it is simply that if the combination of the available water supply and a sprinkler system can't meet the demand of a sprinkler system with some marginal flow left for firefighting then that would clearly be an inadequate water supply for fire protection purposes. When questions are asked relative to water supply, our resource is the Water Authority in terms of what the system is capable of delivering. Since these improvements have been proposed and we don't know what they will yield in terms of increased gallons per minute, for us that part would be speculative.

When Councilman Watts asked if the water was tested for gallons per minute, Fire Chief Rukavina said that the water was tested three times and the water flow hasn't changed substantially. He was stating that on recollection since he hadn't reviewed this since the Council public hearing on September 27. However, his recollection is that the water flows on Brotherton are for all intents and purposes non-existent and that's because it seems that the hydrants there are on a 2" main and that 2" main can deliver water for domestic purposes, but for fire protection purposes the gallons per minute flow is very low. When you get out onto Virginia and further up Virginia the water flows improve. When you get more to the project site, you can develop a 500 gallon per minute flow, which would again be adequate in our view for a single family dwelling but not for a duplex.

Councilman McClure asked Fire Chief Rukavina about the sprinkler system competing with the fire hoses. He responded that if you have a

sprinkler system in there, isn't that going to compete against the fire hoses. Our experience with sprinkler system is that documented evaluations of sprinkler systems indicate that they are very, very effective. The sprinkler system essentially controls or extinguishes the fire before the Fire Department even gets there. Therefore, the sprinkler system competition for water supply is generally not an issue. As a matter of fact, what fire protection experts say is that if a building is equipped with a sprinkler system the Fire Department is better off using water it carries on its own trucks and not interfering with the operation of the sprinkler system.

Councilwoman Sitnick said that there is no way she is going to vote positively to put housing in, that for all intents and purposes and according to everything we have heard today, will endanger its occupants. She is also concerned with the rest of the neighborhood where there are red-topped fire hydrants clearing indicating that fire flow is inadequate. Therefore, she moved to deny this group development project for safety reasons. This motion was seconded by Councilman Swicegood.

Mr. Walter Currie, attorney for the Housing Authority, asked that Councilwoman Sitnick be excused from participating in these deliberations. The reason he stated is that Council today is sitting in a quasi-judicial capacity. The Council is deliberating on whether or not an applicant has complied with the City's ordinance. We feel that the Housing Authority has fully complied with the City's ordinance and that the Council has the evidence to see that. Councilwoman Sitnick sat with the P&Z Commission when it held it's hearing on this matter. She made comments as to her feelings at that point in time and he felt that, under the authority of Crump v. Board of Education, she has indicated a bias or a prejudice that would be improper under North Carolina law. So we would ask that she be excused from participating.

Vice-Mayor Peterson felt that if you don't have adequate fire protection who will be responsible if a fire occurs.

City Attorney Slawter stated that the Crump case that Mr. Currie is referring to is a case where there was a matter related to a school board employee and the school board was taking action. One member of the school board expressed an opinion regarding the action that should be taken before hearing all of the facts upon which the ultimate determination should have been made. Since he was not present at the P&Z Commission meeting, he assumes that Mr. Currie is saying that Councilwoman Sitnick expressed an opinion there about what should be done in this particular situation without having first participated in hearing what was presented to the Council at the public hearing and at this meeting today. Based upon that, if an opinion was expressed at that time, I would have to concur that the Crump case would apply.

Councilwoman Sitnick asked Mr. Currie what she said.

Mr. Currie said he couldn't tell her in verbatim what she said. However, he could tell her in substance though. First of all, Councilwoman Sitnick sat at the table with the P&Z Commission as though she were a member.

Councilwoman Sitnick asked if that was the meeting where there were no seats left and the Chair invited her to sit on the podium where there were other people sitting.

Mr. Currie said that he was referring to the public hearing that the P&Z Commission held on this subject.

Councilwoman Sitnick said that she only sat up on the podium one time and that was when this was a full hearing and there were seats placed all over and the Chair Barber Melton asked her to sit on the podium. She is the official liaison from City Council to the P&Z Commission. She usually sits to the side. The one and only time she did sit on the podium was because there was not another spot in the room to sit.

Mr. Currie said it was a meeting of the P&Z Commission. Councilwoman Sitnick did express negative opinions regarding this project at that point in time. He could not tell her verbatim what she said. He has asked the secretary of the P&Z Commission to provide him with a transcript which has not yet been done.

City Attorney Slawter said that if Councilwoman Sitnick's not sure what she said and Mr. Currie is not sure what she said, then he could not state an opinion as to whether the Crump case applies.

Councilwoman Sitnick asked if this was a quasi-judicial hearing? She didn't hear anybody sworn in or asked if they wanted a formal hearing or an informal hearing. We don't have a court reporter here.

City Attorney Slawter said that the public hearing was closed on September 27, 1994.

Councilman Swicegood said that if the Housing Authority is going to challenge City Council, he would be more than welcome to accept the challenge on a legal battle for whatever grounds they want. He felt like this City Council represents the City and the best interests of the public and to him it's a disgrace for the Housing Authority to get up and say that.

Mr. Craig Justice, attorney with the Van Winkle law firm, and said that there is a case that came in after Crump which said that Crump is not applicable when there was an objective standard being reviewed that would deny a project. Crump only applies when there is some subjectivity but not when there is an objective standard. The case is Rice v. Town of Weaverville. He emphasized to Council when you're talking about fire flow and you're looking at 500 gallons per minute, it's pretty objective to see whether or not they meet that standard or not.

Councilwoman Sitnick appreciated Mr. Justice for bringing that to Council's attention. She said to call her naive but she was elected to serve the public, all of them. She will go to the mat for principle. There is no way she will support anything that endangers one single citizen of the City of Asheville and she would further say to Mr. Currie that there are things that the Housing Authority does and has done and continues to do that clearly offend her. But there is no way she'll bring any of those things up at a City Council meeting. She is offended by his improper remarks. As much time as she puts in on this City Council and as liaison to P&Z Commission, he should be ashamed of himself.

Ms. Coreen Beverly said that they were not there to try to tell Council how to do their job but we are here to epresent housing and there are a lot of people who need those houses.

Councilwoman Sitnick responded by saying that she would not put citizens in housing where they are not sure if they can protect them in case of a fire.

Councilwoman Sitnick said that her motion was made because she has not been assured by the official, professional employees of the City of Asheville that the citizens who live in those units could be protected in case of a fire. It wouldn't matter if this was affordable housing or a high rent district. She has been fighting for affordable housing for 30 years of her adult life. This is nothing personal. This is a political decision, this is a professional decision, this is a safety decision. If she had been told by the Chief of the Fire Department and the Director of the Water Department that we cannot be assured that we can provide fire protection, then she would not be able to sleep at night worrying that if there is a fire that any citizen would be endangered. She appreciated the work the Housing Authority has done in trying to compromise on this and she is very happy with all of that. But she cannot in good conscience endanger a citizen of the City of Asheville. She asked the City Attorney to comment on the statements made by Mr. Justice.

City Attorney Slawter said that he was not familiar with the Rice v. Town of Weaverville case, but would look into it.

Mayor Martin called for a vote on the motion to deny the group development project. This motion carried on a 6-0 vote (Councilwoman Field was excused from voting).

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR MOUNTAIN CHATEAU SUBDIVISION

Mr. Tony Nicholson, Urban Planner, said that on August 1, 1994, the Planning & Zoning Commission recommended approval of the preliminary plat for Mountain Chateau Subdivision with four conditions - subsequently, all four conditions on the approval have been met.

On June 21, 1994, the City Council took the following actions regarding three variance requests:

- Denial of a variance request regarding the creation of lots which do not abut a public street. Therefore, the street serving the Subdivision, Mountain Chateau Lane, must be upgraded to NC DOT standards and dedicated to the public.

- Approval of a variance request regarding the reduction of the right-of-way width of Mountain Chateau Lane to 45 feet.

- Approval of the variance request to permit the property line of Lot 11 to be located at the centerline of the right-of-way.

Vice-Mayor Peterson moved for the final plat approval of Mountain Chateau Subdivision. This motion was seconded by Councilwoman Field and carried unanimously.

B. FINAL PLAT APPROVAL FOR SWEETBRIAR GROVE SUBDIVISION

Mr. Gerald Green, Senior Planner, said that this subdivision is located on Onteora Road, outside the City limits but within the City's planning jurisdiction. Due to its location outside the City, improvements (streets, water and sewer) do not have to be installed prior to final plat approval. Twenty-one lots are included in the Subdivision, with one of the lots to be reserved as a common area.

On June 1, 1994, the Planning & Zoning Commission recommended approval of the preliminary plat for Sweetbriar Grove Subdivision with the condition that the developer obtain a driveway permit from the North Carolina Department of Transportation. That permit was granted for access to Onteora Road on June 2, 1994.

Councilwoman Field moved for the final plat approval of Sweetbriar Grove Subdivision. This motion was seconded by Councilman Watts and carried unanimously.

C. ORDINANCE NO. 2148 - AN ORDINANCE AMENDING ORDINANCE NO. 1958 REGARDING THE DEMOLITION OF 10 SUNSET SUMMIT

City Attorney Slawter explained this ordinance amends Ordinance No. 1958 to allow enforcement of the January 1991 demolition order in accordance with Article VII of Chapter 4 of the Code of Ordinances of the City of Asheville. The effect of this change is to allow the owner to dispose of the demolition debris on-site in lieu of hauling it to an approved landfill.

The January 1991 demolition order of the Chief Building Inspector was appealed to the Board of Adjustment ("BOA") which upheld the order. The respondent failed to comply with the order, so it was taken to City Council for an ordinance directing the Director of the Building Inspections Division to demolish the dwelling. The property was sold at auction for back taxes. The buyer was Kenneth Maultsby who demolished the dwelling down to the level of the garage floor and then applied for and was issued zoning and building permits to build on the remaining structure. The neighbors appealed the issuance of the permits to the BOA which upheld the permits. The neighbors then appealed the BOA action to Superior Court. Judge Saunders issued an order to the City directing the Council and the BOA to take whatever action necessary to compel the owner to comply with the original demolition order. City Council passed Ordinance No. 1958 in response to Judge Saunder's order. Mr. Maultsby subsequently razed the rest of the structure. Mr. Maultsby has left concrete, rock, and some quantity of wood on the site, covered it with soil and seeded the lot. Mr. Hixson wrote Mr. Maultsby a letter indicating that, if Mr. Maultsby would get a letter from the North Carolina Department of Environmental Health and Natural Resources ("NCDEHNR") certifying that he had complied with their regulations concerning on-site beneficial fill, a certificate of compliance would be issued for his demolition permit. The neighbors have appealed Mr. Hixson's letter to the BOA. The case has been continued to an indefinite date. In the meantime, NCDEHNR has decided that they do not have jurisdiction over this case and have refused to provide certification making it impossible for Mr. Maultsby to comply with Mr. Hixson's letter.

A NCDEHNR inspector visited the site with Mr. Maultsby and Mr. Hixson and verbally indicated that the site appeared to be okay. The NCDEHNR subsequently determined that they do not have jurisdiction. The small quantity of wood buried in the rubble and the small size of the

lot appear to be acceptable. There are no provisions in the Asheville Code of Ordinances that preclude the disposal of demolition debris as has been done in this case. Based on the foregoing, Mr. Hixson has determined that, upon the revision of Ordinance No. 1958, the demolition of the dwelling at 10 Sunset Summit would be complete.

Ordinance No. 1958 that was adopted by the City Council directing Mr. Hixson to demolish the structure incorporated language of the old City Housing Code and under the old City Housing Code the definition of demolish also directed removal from the site of the structure that was demolished. An argument has been made that Mr. Maultsby must remove everything from the site that was ever a part of that structure because the old City Housing Code in defining demolition says demolish and remove. The new City Housing Code which became effective July 1, 1994, does not include the removal language as a part of the definition of demolish. It provides demolish as meaning "the tearing down and disposal of the entire dwelling in a lawful manner leaving the property free and clear of any debris and without holes or pockets" but does not specifically require removal of all the materials from the site as the old ordinance had required. Mr. Hixson is satisfied that all safety requirements would be met as the site now exists, but again, the argument has been put forth that because of the language in the ordinance as adopted by the City Council incorporating the language of the old Housing Code that made reference to demolish and removal of the structure, the argument is put forth that everything that is on the site must be removed. The ordinance before the Council would amend Ordinance No. 1958 to provide that the definition of demolish under the new Housing Code effective July 1, 1994, would be applicable in this situation, rather than the prior definition, so as to eliminate that specific requirement of removal of the debris from the site. It would only require that the demolition be conducted in a lawful fashion.

Mr. Ron Payne, attorney representing Mr. Maultsby, stated that one fact Mr. Slawter omitted and that is that after leveling the property down to the ground, it was after that that Mr. Hixson interpreted that the driveway was actually a part of the structure and that too had to be removed. That was what prompted Council to enact Ordinance No. 1958. The driveway now has also been removed. The only issue now is whether or not Mr. Maultsby has gone to a great deal of expense in removing a building, and now will have to go to further expense by digging up and removing materials that were used in the construction of the original house. The problem is the City is creating an instance where someone has more invested in a lot than they can ever hope to get back out of it. By passing this ordinance, the Council is doing nothing more than letting Mr. Maultsby play on the same playing field that someone who were ordered today to tear down a structure would have to comply with. He urged the adoption of the amendment to Ordinance No. 1958.

Mr. Joe McGuire, attorney representing Harvey Heywood, Ray Myers, and the Sunset Mountain Property Owners Association, spoke in opposition to the adoption of this proposed ordinance. This ordinance retroactively gives Mr. Maultsby an exemption contrary to an ordinance already adopted by Council and contrary to a court order entered. He felt that adoption of this retroactive exemption will reward someone who has specifically and willing violated Council's prior ordinance. He also felt that adoption of this proposed ordinance will subject the City to contempt sanctions for failure to abide by Judge Saunders' order entered January 20, 1994, which directed the City and Mr. Maultsby to comply with the prior demolition order which demolition under the Housing Code at that time meant demolish and remove the entire

structure. He pointed out that between the time Council adopted Ordinance No. 1958 in March 1994 and until the time the new Housing Code was adopted on July 1, 1994, Mr. Maultsby was in direct violation of what the Council ordered him to do, he put fill over all of that 1,000 tons and during that period of time the City officials refused to enforce Ordinance No. 1958 as well as the court order. He presented Council with letters dated May 10, 1994, and June 6, 1994, stating that the City needs to enforce both the court order and the ordinance. He said what is at stake here is a matter of principle, of enforcement of the City's ordinance, but what is also at stake is the whole issue of fairness. When Mr. Maultsby bought this property he knew he had to remove the debris. He bought it pursuant to the deed and a notice of foreclosure saying that he knew he had to remove everything. The people who bid against him did not bid higher because they knew they had to remove the debris. The issue today is he is asking you to retroactively allow him to have violated your ordinance and the court order. The key is that at the time Judge Saunders entered his order in January saying that the building had to be demolished, pursuant to the Housing Code, the Housing Code defined in Section 8-17 (h) "demolish shall mean the demolition and removal of the entire building leaving the property free and clear of any debris and without holes and pockets."

City Attorney Slawter said that the order that was entered by Judge Saunders in January of 1994 directed that the Board of Adjustment and City are ordered to take those steps necessary to enforce the demolition order of March 14, 1991, against the current owner of the Brummer site. That March 14, 1991, order was actually a Board of Adjustment order, rather than Mr. Hixson's order. That March 14 order affirmed Mr. Hixson's order and directed that the petitioner who was Florence Brummer, is hereby ordered to comply with the January 7, 1991, order issued by Mr. Hixson. There was no specific reference to demolition, removal, or anything in that March 14 order, but it did uphold Mr. Hixson's January of 1991 order. Mr. Hixson's January 7, 1991, order directed that, it is hereby ordered that the Respondent Florence Brummer demolish the unfinished dwelling, etc. It did not specifically get into removal. Arguably the definition did include removal as part of demolish at that time, but there was no specific requirement set forth in that order that the demolition would include removal. The only document that he was aware of that that language was specifically included in was in Ordinance No. 1958 that was adopted on March 22, 1994, directing Ken Maultsby to demolish the dwelling and that language said that he's to comply with the Housing Code by demolishing and removing the dwelling and the removal language was incorporated into the ordinance because of the language from the ordinance. But again, the earlier documents, Mr. Hixson's order, the Board of Adjustment order upholding that, and Judge Saunders' order directing that the City and the Board of Adjustment see that Mr. Maultsby complied with the earlier orders do not specifically specify a requirement for removal.

City Attorney said that Judge Saunders directed that the Board of Adjustment and City take those steps necessary to enforce the demolition. There was a house on the site at that time. This City Council adopted an ordinance directing our Building Inspector to tear the house down if Mr. Maultsby didn't. Mr. Maultsby did tear the house down. I think the City Council has brought about the demolition of the structure and has complied with the court order. Mr. Hixson has stated that the location of the debris on the site would not be in violation of any City Code provisions.

Councilwoman Sitnick questioned if there was a compaction or a visual problem. Mr. McGuire said that at this time there is not a visual problem, however, there might be a compaction problem. The compaction problem is that environmentally neither the City nor Mr. Maultsby ever got the approval of the State environmental people who said you can bury concrete, and a lot of it was concrete, but you cannot bury treated wood or steel. There was a lot of that that was buried as well. So there is a compaction problem in the sense of what's under there is contrary to the State Environmental Code and there has never been given any approval given for that. Another problem is that with him filling in over 1,000 tons of concrete, steel and treated wood, the elevation upon which to build is going to be that much higher and historically the neighbors concern was about the elevation looming up over their house and blocking their view.

Councilwoman Field asked if there was anything illegal about the way the fill was installed. Mr. Bob Hixson, Director of Building Inspections, said that there is some amount of wood located beneath some of the concrete debris. His belief is that the wood that is there is what was originally the deck at the front of the house. There is concrete debris above that and above that is what I understand is clean fill, which has been seeded. Other than running his equipment over the top of it, I am not sure if he has applied any specific compaction effort to that fill.

Mayor Martin said members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2148. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2148 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 311

D. ORDINANCE AMENDING THE HOUSING CODE REGARDING NOTICE REQUIREMENTS

At the request of the City Attorney this item has been deleted from the agenda.

E. ORDINANCE NO. 2149 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON PORTION OF WELLS AVENUE, ALL OF OVERLOOK ROAD AND ALL OF ROCK HILL ROAD

Public Works Director Jim Ewing explained that this ordinance will prohibit truck traffic on a portion of Wells Avenue, portion of Hazel Mill Road, all of Overlook Road and all of Rock Hill Road, all of which were requested by the local residents.

Mr. Charles Worley, attorney representing Kinco Corporation which is one of the occupants of Westside Commercial Park, passed out a map and then explained his reasons for urging Council not to prohibit truck traffic on that portion of Hazel Mill Road.

Mr. Tom Ramsey, President of Tree Products, also urged Council to delete that portion of Hazel Mill Road from the proposed ordinance.

City Attorney Slawter said that the ordinance that prohibits truck does not prohibit trucks on the road if that is the only way that they can get to their destination.

Mayor Martin said members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2149, with the deletion of the portion of Hazel Mill Road. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2149 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 313

F. RESOLUTION NO. 94-214 - RESOLUTION APPROVING THE REPORT SETTING FORTH PLANS TO PROVIDE SERVICES TO THE AREA PROPOSED FOR ANNEXATION WHICH IS GENERALLY KNOWN AS THE OTEEN III ANNEXATION AREA

Senior Planner Patty Joyce briefed the Council on the Plan that provides the following information about the character of the area and the delivery of City services:

- Statement showing that the area to be annexed meets all statutory requirements
- Plans for the extension of each major municipal service performed within the municipality at the time of annexation
- Statement of the impact of the annexation on any rural fire department providing service to the area proposed for annexation
- Maps of the municipality and the territory to be annexed

At the request of Vice-Mayor Peterson, Ms. Joyce said she would be happy to arrange a community meeting in the area to let the residents know of the proposed annexation and address any concerns they may have.

Upon inquiry of Councilman McClure about what the residents in the area will receive from this annexation, Ms. Joyce said they would be receiving a higher level of fire protection in addition to the other services the City currently provides. She said there would also be an improvement of the fire rating in this area.

Ms. Joyce responded to a question by Councilman McClure relative to the Riceville Volunteer Fire Department's outstanding debt.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-214. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Councilmen McClure and Swicegood voting "no".

RESOLUTION BOOK NO. 22 - PAGE 119

G. RESOLUTION NO. 94-215 - RESOLUTION RECOMMENDING ADOPTION OF ASHEVILLE URBAN AREA THOROUGHFARE PLAN

Transportation Planner Ron Fuller explained that the Asheville Urban Area Thoroughfare Plan Map dated September 29, 1994, has been

approved by the Technical Coordinating Committee, the Transportation Advisory Committee and the Transportation Advisory Group.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 94-215. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 120

H. RESOLUTION NO. 94-216 - RESOLUTION ENCOURAGING LEGISLATION TO HELP PUT A STOP TO THE VICIOUS CYCLE OF DOMESTIC VIOLENCE

Councilwomen Field and Sitnick introduced this resolution which will encourage the North Carolina League of Municipalities, National League of Cities and legislators at all levels to rush domestic violence legislation to the top of their agenda in order to help put a stop to the vicious cycle of domestic violence.

Councilwoman Field said that in the State of North Carolina if a man hits a man, it's a felony, but if a man hits a woman, it's a misdemeanor. In fact, there is more protection for a dog than there is for a woman or a child.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 94-216. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 121

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETINGS HELD ON OCTOBER 4, OCTOBER 11 AND OCTOBER 25, 1994

B. RESOLUTION NO. 94-217 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIRE RESPONSE AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND FLETCHER FIRE DISTRICT.

Summary: This resolution authorizes the City Manager to enter into an agreement with the Fletcher Fire Department for automatic ladder truck response to reports of structure fires at the Asheville Regional Airport.

Up until the summer of 1993, the Skyland Fire Department provided the ladder truck response required by the Insurance Services Office (ISO) for structure fires at the Airport. But at about the same time that ISO representatives came to Asheville to evaluate Asheville's fire protection system, Skyland announced the sale of their ladder truck.

ISO expects a ladder truck within five miles of the Airport to respond to structure fires at the Airport. The Fire Chief has negotiated an agreement with the Fletcher Fire Department to provide this ladder truck response.

Execution of this agreement will mean an improvement in the "fire department" section of ISO's upcoming reevaluation of Asheville's fire rating. This reevaluation is expected to take place in early November.

RESOLUTION BOOK NO. 22 - PAGE 122

C. **RESOLUTION NO. 94-218 - RESOLUTION STATING THE INTENT OF THE CITY OF ASHEVILLE TO CONSIDER THE ANNEXATION OF AN AREA KNOWN AS THE WEST CHAPEL ROAD PARK AND FIXING THE DATE OF A PUBLIC HEARING ON NOVEMBER 15, 1994**

RESOLUTION BOOK NO. 22 - PAGE 125

D. **RESOLUTION NO. 94-219 - RESOLUTION OF INTENT TO DEMOLISH THE DWELLING LOCATED AT 126 BROAD STREET AND SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994**

RESOLUTION BOOK NO. 22 - PAGE 126

E. **RESOLUTION NO. 94-220 - RESOLUTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, REGARDING A REQUEST FOR A QUARTERLY ADJUSTMENT TO THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER**

RESOLUTION BOOK NO. 22 - PAGE 128

F. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, REGARDING A VARIANCE REQUEST FOR FANN SUBDIVISION**

G. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING 591 BREVARD ROAD FROM CH COMMERCIAL HIGHWAY TO LI LIGHT INDUSTRIAL**

H. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING ONE LOT ON EMMA ROAD FROM R-5 RESIDENTIAL TO LI LIGHT INDUSTRIAL**

I. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO REZONING 6, 8, 20 SAND HILL SCHOOL ROAD AND 901 SAND HILL ROAD FROM NC NEIGHBORHOOD COMMERCIAL TO CG COMMERCIAL GENERAL**

J. **MOTION SETTING A PUBLIC HEARING ON NOVEMBER 15, 1994, RELATIVE TO PARTIALLY REZONING 1389 PATTON AVENUE FROM CH COMMERCIAL HIGHWAY/R-3 RESIDENTIAL TO CH COMMERCIAL HIGHWAY**

K. **MOTION SETTING A PUBLIC HEARING ON DECEMBER 6, 1994, RELATIVE TO THE ZONING OF THE BREVARD ROAD AREA**

L. **MOTION SETTING A PUBLIC HEARING ON DECEMBER 6, 1994, RELATIVE TO REZONING 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL**

Councilman Swicegood moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. CONTRACT WITH THE CHAMBER OF COMMERCE

Councilman Watts moved to authorize the City Manager to execute an agreement with the Chamber of Commerce in the amount of $90,000 to be disbursed in quarterly installments. Further that the agreement is to be worded so that the Chamber is to provide the City with a quarterly report evidencing satisfactory progress toward the goals discussed by the Chamber and the City today; and if it's not provided in a timely fashion, and does not evidence satisfactory progress in the opinion of the Council, then there will be no further funding under the agreement. This motion was seconded by Councilwoman Field and carried unanimously.

B. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of September 29-October 5, 1994: Dona Cavanagh (Parks and Recreation), Nichole Shipley (Water), Ben Reeves (Water) and Ernest Page (Water).

He also said the following claims were received during the week of October 6-12, 1994: Alethea Robertson (Fire), Paul N. Wright (Water) and Wayne Hoffner (Water).

He said the following claims were received during October 13-19, 1994: Gail Nelson (Water), Ronald W. Rogers (Parks and Recreation) and Julie Combs (Engineering).

He said that these claims would be referred to the appropriate insurers for investigation.

C. LAWSUIT

City Manager Westbrook said the following lawsuit has been received on November 1, 1994: Jack Smith Transmission v. Mark Cromer and the City of Asheville (small claims - complaint for money owed).

He said that this will be handled in-house.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:05 p.m.

William S. Wolcott, Jr.
CITY CLERK

MAYOR

Tuesday - November 15, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-221 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE JEFF MEADOWS

City Manager Westbrook read the resolution stating that Jeff Meadows has been an employee for nine years and has requested retirement from his position as Sanitation Equipment Operator in the Public Works . He expressed City Council's appreciation to Jeff for his service to the City of Asheville and its citizens.

Resolution No. 94-221 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 129

B. RESOLUTION NO. 94-222 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE ANNETTE McDANIELS

City Manager Westbrook read the resolution stating that Annette McDaniels has been an employee for 20 years and has requested retirement from her position as Recreation Center Director in the Parks and Recreation Department. He expressed City Council's appreciation to Annette for her service to the City of Asheville and its citizens.

Resolution No. 94-222 was adopted by acclamation.

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II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING RELATIVE TO PARTIALLY REZONING 1401 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

ORDINANCE NO. 2150 - ORDINANCE TO PARTIALLY REZONE 1401 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin said that this public hearing was opened on October 4, 1994, and continued until this date.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests the rezoning of a portion of a lot, located at 1401 Patton Avenue, from R-3 Medium Density Residential to CH Commercial Highway. The property is currently being used for commercial purposes as an established funeral home. The lot is split zoned and the owner has requested that the entire lot be zoned CH.

The City Planning staff has recommended that the portion of the lot be rezoned from R-3 Residential to CH Commercial Highway in order to eliminate the split-zoned lot. The building and parking lot (which are located on the portion of the lot that is zoned R-3), are being used for commercial purposes, therefore, the remaining portion of that lot should be rezoned to CH Commercial Highway.

However, the Planning and Zoning Commission reviewed the request and recommended denial of this portion.

Groce Funeral Home Inc. has appealed the Planning and Zoning Commission's decision.

Earlier during the day, Mr. Max Cogburn, attorney for Groce Funeral Home Inc., presented City Council with 16 letters from surrounding property owners. Most of the letters were from the property owners who signed the original petition opposing the rezoning but now after closer examination of the request, do not now oppose the rezoning.

Upon inquiry of Councilwoman Sitnick, Mr. Ownbey said that the R-3 zone does allow for professional offices as a conditional use if it abuts certain thoroughfares, and Patton Avenue is one of those thoroughfares. He said they would have to go to the Board of Adjustment, meet all the criteria under the conditional use requirements in the ordinance and get a conditional use permit from the Board to do any development of that piece of property.

Mayor Martin closed the public hearing at 4:16 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2150. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2150 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 314

B. PUBLIC HEARING RELATIVE TO PARTIALLY REZONING 1389 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

Mayor Martin opened the public hearing at 4:18 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests the rezoning of a portion of a lot from R-3 Medium Density Residential to CH Commercial Highway. The property currently has a vacant residential apartment on it which the petitioner wishes to demolish and construct a parking lot. The lot is split zoned and the petitioner has requested that the entire lot be zoned CH.

The City Planning staff has recommended that the portion of the lot located at 1389 Patton Avenue be rezoned from R-3 Residential to CH in order to eliminate the split-zoned lot and to allow commercial development of the vacant structure and accessory building.

The 2010 Plan indicates low density residential along the west side of Patton Avenue and commercial development on the east side of Patton Avenue in this area. However, the current character of the area has developed into commercial along both sides of Patton Avenue.

On October 5, 1994, the Planning and Zoning Commission reviewed the request and unanimously recommended denial of this portion.

On November 11, 1994, a protest petition was filed in the City Clerk's Office which contained 35 signatures requesting denial of this proposed rezoning. After review of the petition, the Planning Department determined that the petition was a valid protest petition which invokes the 3/4's vote requirement of the Council to approve the rezoning request.

Councilwoman Sitnick stated that she visited the property in question three times. She felt there is a jagged pattern all along Patton Avenue on that side. She was very impressed with the Lucerne Park neighborhood. While she understands the desire of the owner of the property to have it rezoned, because of the way the property lies the back portion, it actually juts into the residential houses on either side of it. The zoning line came straight across rather than following the property line. She is concerned about protecting the neighborhood and the tax base, which is considerable especially for West Asheville. She felt it was important to protect the stability of the neighborhood and the possible future potential of historic designation. There is incredible architecture back in Lucerne Park. While her feeling is that while those folks bought homes knowing they were one lot away from a commercial highway corridor, they did that knowingly. However, they did not expect to have a piece of property that was so oddly shaped intrude that deeply back into what is really a short residential community. She was not going to vote to rezone this piece of property.

Mr. Stephen Towe, real estate broker who has listed this property for sale, presented Council with a pamphlet in which he read from a page marked DRAFT as follows: "where uncertainty exists with respect to the boundaries of the various districts shown on the zoning maps, the following rules shall be used to interpret those maps: where a zoning line or district boundary is shown to coincide approximately with a property line or city limit line, the property line or city limit line shall be considered to be the district boundary, unless otherwise indicated." He stated that many places along Patton Avenue intrude into neighborhoods. He said that since 1937 this has always been one lot. The portion zoned R-3 is too small to use as an R-3 lot and felt it was a useless piece of land if not rezoned CH. The residents' argument has been based on that they don't want commercial intrusion into their neighborhood. He said if the property is zoned CH, there is a 20 foot buffer that would be required whereas if it is not rezoned, no buffer is required. The neighborhood will end up with people parking on the street which will result in more of a traffic hazard than currently exists or people will park in the grassy part zoned R-3 because there is not enough parking space on the existing CH lot to put any parking in. He questioned since when has it been the practice of the Planning & Zoning Commission to arbitrary interpret zoning laws based on the bias input of the neighbors. He said this is the only lot up and down the Patton Avenue corridor that is split zoned and that his client is being made to suffer and being discriminated against because of the personal bias of a few neighbors.

Planning Director Julia Cogburn explained the buffering requirements and corrected Mr. Towe by stating that if the zoning were changed to CH, a 12-foot buffer would be required, not a 20-foot buffer.

The following residents in the area spoke against the proposed rezoning for several reasons: Ms. Jamie Ross, Ms. Robin Kastlor, a resident on Lucerne Avenue, and Mr. David Young. Mayor Martin also stated that Ms. Tipton and Mr. Tim Fullbright called in to express their opposition to the rezoning.

Councilwoman Sitnick stated that just because there is intrusion in other areas along Patton Avenue is not an argument for Council to approve more intrusion into a neighborhood. She felt that part of the neighborhood concern is that several pieces of property could be put together as Young mentioned and there could be some kind of extensive commercial development in there. She wondered even with a buffer requirement of 12 feet on a lot that size whether or not that back portion could be used for anything commercial. It seems to her that the buffering requirement would diminish the lot to a point of not being able to put a structure on it and as far as elevations are concerned, they change all the time in these mountains. The fact that the neighbors weren't contacted is a concern and this isn't just about a few local neighbors having their way. This is about one person being able to achieve a greater value for his property as opposed to the devaluing of a lot of properties for a lot of people. She respects a person's right to do with his property as he will, but this is not about that. This is not about someone wanting to make repairs to a garage or repair a handicapped ramp like the Groce Funeral Home, but it's about someone who owns a piece of land and wants to sell it and has the right to make as much money as he can on it. But in her mind, accruing that profit is at the expense of many people who live here who would not only be intruded upon as far as the physical aspect of commercial development taking place there, but their properties would be devalued.

Upon inquiry of Councilwoman Field, Mrs. Cogburn answered more questions relative to buffering and determined that we could not require a buffer on the street side.

Mayor Martin closed the public hearing at 4:52 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Mrs. Cogburn answered questions about under what circumstances the portion could be used for parking.

Councilman Watts moved to postpone consideration of this rezoning request until December 6, 1994, in order to give Council members time to visit the property in question. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Field requested a worksession with the Planning Department in order that Council clearly understand the issues surrounding this request and what Council's options are.

Vice-Mayor Peterson requested the Planning Department contact the neighborhood association to inform them of some of the issues raised today, i.e. buffering, parking, etc.

C. **PUBLIC HEARING RELATIVE TO VARIANCE FOR FANN SUBDIVISION**

Mayor Martin opened the public hearing at 4:56 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Mattson, Urban Planner, said that on November 2, 1994, the Planning and Zoning Commission voted to recommend approval of the preliminary plat and variance for Fann Subdivision. Fann Subdivision is a two lot subdivision on 5.98 acres on Carter Cove Road in North Asheville.

The variance requested is to allow a modification to the subdivision regulation which requires that every lot in a subdivision abut a public street.

The Planning staff recommended denial, however, on November 2, the Planning and Zoning Commission recommended approval of the variance.

Mr. Tom Steitler urged Council to approve the variance so he can sell two acres out of his six acre lot in accordance with the private subdivision regulations. They bought the lot prior to their being annexed into the City and now he needs a variance to protect his property rights.

Mayor Martin closed the public hearing at 5:04 p.m.

Councilman Swicegood moved to approve the variance request to allow a modification to the subdivision regulation which requires that every lot in a subdivision abut a public street for Fann Subdivision. This motion was seconded by Councilwoman Sitnick and carried unanimously.

D. **PUBLIC HEARING RELATIVE TO DEMOLITION OF 126 BROAD STREET**

ORDINANCE NO. 2151 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING SAFETY TO DEMOLISH THE DWELLING KNOWN AS 126 BROAD STREET

Mayor Martin opened the public hearing at 5:05 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Inspections, said that inspections of 126 Broad Street revealed that the dwelling has a structurally unsound roof; the walls and floors have been damaged by fire; the heating, electrical and plumbing systems have been damaged; and the structure is unfit for human habitation.

Mayor Martin closed the public hearing at 5:06 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2151. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2151 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 316

E. PUBLIC HEARING RELATIVE A QUARTERLY ADJUSTMENT TO THE MAXIMUM PERMITTED RATE OF TCI CABLEVISION OF ASHEVILLE FOR ITS BASIC SERVICE TIER

RESOLUTION NO. 94-223- RESOLUTION APPROVING A QUARTERLY ADJUSTMENT TO THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER

Mayor Martin opened the public hearing at 5:07 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Assistant City Attorney Patsy Meldrum said that the City of Asheville received a request from TCI Cablevision of Asheville for an increase in the recently approved rate for basic service tier of $9.19 a month to a rate of $9.52 a month, based upon the addition of a channel and an increase in external costs for the quarter from April 1, 1994, to June 30, 1994. On November 1, 1994, the City Council set this public hearing to review the request of TCI Cablevision of Asheville and to allow an opportunity for comments from TCI Cablevision of Asheville and from interested parties. City staff has reviewed their request and finds that it fits within the adjustment permitted by the Federal Communications Commission.

Upon inquiry of Mayor Martin, Ms. Meldrum stated that the only recourse the City Council has would be to postpone consideration because you need further information. If City Council fails to act, then the request goes into effect automatically within 30 days, whether City Council concurred or not.

Upon inquiry of Vice-Mayor Peterson, Mr. Dan Martin, General Manager of TCI Cablevision of Asheville, answered questions as they related to renegotiating a new franchise agreement with the City, submission of checks on time, auditing of records, etc.

City Attorney Slawter responded to questions from Councilman Watts as they related to late franchise fee payments.

Mayor Martin closed the public hearing at 5:24 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-223. This motion was seconded by Councilman Watts and carried on a 5-2 vote, with Vice-Mayor Peterson and Councilwoman Sitnick voting "no".

RESOLUTION BOOK NO. 22 - PAGE 131

F. PUBLIC HEARING RELATIVE TO REZONING 591 BREVARD ROAD FROM CH COMMERCIAL HIGHWAY TO LI LIGHT INDUSTRIAL

ORDINANCE NO. 2152 - ORDINANCE REZONING 591 BREVARD ROAD FROM CH COMMERCIAL HIGHWAY TO LI LIGHT INDUSTRIAL

Mayor Martin opened the public hearing at 5:25 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests approval for the rezoning of 591 Brevard Road from CH Commercial Highway to LI Light Industrial. The property is currently the U.S. Post Office Distribution Center. The petitioner wishes to construct an addition to the facility and since the Center is not a permitted use in CH, they must rezone to LI to allow for any expansion.

The 2010 Plan indicates industrial development for the area along the west side of Brevard Road and institutional development south of the subject property.

Upon inquiry of Councilwoman Field about a possible conflict of interest since her employer does work for the postal service, City Attorney Slawter felt that there was no conflict since her personal conduct was not an issue nor her financial gain is not involved.

Mayor Martin closed the public hearing at 5:27 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2152. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2152 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 318

G. PUBLIC HEARING RELATIVE TO REZONING ONE LOT ON EMMA ROAD FROM R-5 RESIDENTIAL TO LI LIGHT INDUSTRIAL

Mayor Martin opened the public hearing at 5:28 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests approval for the rezoning of one lot on Emma Road from R-5 Residential District to LI Light Industrial. The property is currently vacant with LI zoning on the north and south and R-5 zoning on the east and west.

The 2010 Plan indicates low density residential in the Emma Road and Dryman Mountain Road area. However, the current character of the area has changed and developed toward high density residential uses and light industrial uses including an industrial park.

Mr. David Owens, 611 Emma Road, thought that it was his property that was being requested to rezone.

Mr. Rustin Rice said that he was the petitioner asking for the property to be rezoned. He said the lot has a "For Sale" sign on it and the owner lives in Georgia. He has an option to purchase the land, but wants to wait to see if it can be rezoned.

Councilwoman Sitnick moved to continue this public hearing in order to give the staff time to clarify the lot question. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

H. **PUBLIC HEARING RELATIVE TO REZONING 6, 8 AND 20 SAND HILL SCHOOL ROAD AND 901 SAND HILL ROAD FROM NC NEIGHBORHOOD COMMERCIAL TO CG COMMERCIAL GENERAL**

ORDINANCE NO. 2153 - ORDINANCE REZONING 6, 8 AND 20 SAND HILL SCHOOL ROAD AND 901 SAND HILL ROAD FROM NC NEIGHBORHOOD COMMERCIAL TO CG COMMERCIAL GENERAL

Mayor Martin opened the public hearing at 5:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests approval for the rezoning of 6, 8 and 20 Sand Hill School Road and 901 Sand Hill Road from NC Neighborhood Commercial to CG Commercial General. These properties contain one convenience store and three residential structures. The petitioner wishes to modernize the convenience store and upgrade his gas pumps to meet EPA standards.

The 2010 Plan indicates low density residential along Sand Hill Road and Sand Hill School Road in this area.

Mayor Martin closed the public hearing at 5:36 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2153. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2153 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 320

I. **PUBLIC HEARING RELATIVE TO ANNEXATION OF WEST CHAPEL ROAD PARK**

ORDINANCE NO. 2154 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA LOCATED ON WEST CHAPEL ROAD KNOWN AS THE WEST CHAPEL ROAD PARK

Mayor Martin opened the public hearing at 5:36 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Joyce, Senior Planner, said that this ordinance will annex a tract of land known as West Chapel Road Park. The Park is owned by the City of Asheville, however, it lies outside the current City limits.

Mayor Martin closed the public hearing at 5:40 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2154. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2154 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 322

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2155 - ORDINANCE AMENDING THE CHARTER OF THE CITY OF ASHEVILLE TO PROVIDE FOR NONPARTISAN ELECTION OF THE MAYOR AND COUNCIL, USING THE "NONPARTISAN PRIMARY AND ELECTION" METHOD

Mayor Martin said that this public hearing was held on November 1, 1994.

City Attorney Slawter said that this ordinance will provide for a change from partisan elections to a nonpartisan primary and election method of selecting the Mayor and members of Council. This method would provide for a primary to be conducted on the fourth Tuesday before the election, with the election to be conducted on the Tuesday after the first Monday in November. The voting would be as follows:

a. Mayor: A primary would be required if there are more than two candidates. The top two candidates in the primary are nominated and placed on the November ballot. The person receiving the highest number of votes in November is elected.

b. Council Seats: A primary is conducted if there are more than twelve candidates. The twelve candidates receiving the highest number of votes in the primary are nominated and placed on the November ballot. The six candidates receiving the highest number of votes in the November election are elected.

Vice-Mayor Peterson said that this ordinance should be adopted so as to become effective immediately and apply to the 1995 elections. City Attorney Slawter said that it would.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2155. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2155 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 324

IV. NEW BUSINESS:

A. **ORDINANCE NO. 2156 - ORDINANCE AMENDING CHAPTER 4, ARTICLE VI (UNSAFE BUILDINGS) AND ARTICLE VII (HOUSING CODE) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE**

City Attorney Slawter explained that this ordinance will amend Article VI of Chapter 4 (Unsafe Buildings) and Article VII (Housing Code) by changing the manner of service to the property owner(s) by: (1) allowing complaints and findings of fact to be served by first class mail; (2) requiring that notices and complaints be sent to certain designated non-profit housing agencies; and (3) requiring a process agent residing in Buncombe County for those property owners owning property in the City but living outside of Buncombe County.

Mayor Martin said members of Council have been previously furnished with a copy of the ordinance and it will not be read.

Councilman McClure moved for the adoption of Ordinance No. 2156. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2156 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 325

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 1, 1994**

B. **RESOLUTION NO. 94-224 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MUNICIPAL BRIDGE AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR REPLACEMENT OF BRIDGE NO. 133 OVER HAW CREEK ON NC 81 KNOWN AS SWANNANOA RIVER ROAD**

Summary: This agreement lays out the City's responsibilities for accomplishing the bridge replacement which includes the relocation and adjustment of municipally owned or franchised utilities. These relocations and adjustments for the water and sewer lines in the area have been accomplished, therefore, no additional work should be required to fulfill the City's responsibilities.

RESOLUTION BOOK NO. 22 - PAGE 132

C. **RESOLUTION NO. 94-225 - RESOLUTION REAPPOINTING OSBORNE HART AS CHAIRMAN OF THE ALCOHOLIC BEVERAGE CONTROL BOARD**

Summary: This resolution will reappoint Osborne Hart as Chairman to the ABC Board for an additional three year term, term to expire November 13, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 133

D. **RESOLUTION NO. 94-226 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ADJUSTMENT**

Summary: This resolution will appoint Judy Long as a regular member to the Board of Adjustment to serve an unexpired term. The term will expire on January 21, 1996, or until her successor has been appointed and qualified.

E. MOTION SETTING A PUBLIC HEARING FOR DECEMBER 6, 1994, TO DESIGNATE THE LOUGHRAN BUILDING, LOCATED AT 43 HAYWOOD STREET, AS A LOCAL HISTORIC LANDMARK

F. MOTION SETTING A PUBLIC HEARING FOR DECEMBER 20, 1994, RELATIVE TO REZONING 15 LOTS ON PISGAH VIEW ROAD FROM R-3 MEDIUM RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

At 5:45 p.m., Councilman Swicegood asked to be excused from the meeting. Vice-Mayor Peterson moved to excuse Councilman Swicegood from the meeting. This motion was seconded by Councilman McClure and carried unanimously.

A. INSURANCE SETTLEMENT

Councilman McClure moved that the City Manager and other necessary City representatives be authorized to sign all documents necessary to settle the claim filed against the City by Wellmon and Floree Eaves related to water damage sustained on or about July 24, 1994, at their home at 201 Tacoma Circle for $35,000. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. MINORITY BUSINESS PLAN

Mr. H. K. Edgerton voiced his concerns over the commitment of Council on the recommendations submitted by the Minority Business Commission resulting from the disparity study.

Mayor Martin assured Mr. Edgerton that the City was wholly committed to the Minority Business Plan and as soon as the new City Manager was finished reviewing the Plan it would be brought back to Council for action.

C. PETITION - STEPHENS-LEE COMMUNITY CENTER

Mr. Everette Parrish, 25 Walton Street, presented the City Council with a petition containing approximately 781 signatures which reads "We, the undersigned, being citizens and taxpayers in the City of Asheville, North Carolina, petition and urge that you approve the proposal made to the City Council on August 23, 1994, that was presented by the Director of Parks and Recreation, Mr. Ray Kisiah, and Mathews and Glazer Architects PA as to the renovation and restoration of the Stephens-Lee Community Center. It is our concern that this historical and beloved area of our city be preserved and properly used by all of its citizens. We desire that you intercede for us and instruct our City Manager to participate in making available the required funding for this project.

Upon inquiry of Mayor Martin, Mr. Ray Kisiah, Director of Parks and Recreation, stated that the City currently has budged $350,000 for this project, however, cost estimates range from $1.5 million to $1.7 million.

When Councilwoman Sitnick inquired about some type of fee which might be imposed for a specific area that would be earmarked for use in that specific area, Mr. H.K. Edgerton felt the African American community would be very receptive to that idea.

D. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville from October 20 - November 2, 1994: Paul K. Karsten Jr. (Public Works), Tracy B. Page (Water), Kathryn Wolfe (Water), Steven A. Jackson (Water), BellSouth Telephone (Water), BellSouth Telephone (Water), Beatrice Wallcoff (Streets), Marguerite Bailey (Inspections), Wind in the Oaks Condominiums (Water), Onley Pressley (Water), Terry and Debra Henderson (Inspections) and Jeannette Houston (Police).

He also said the following claims have been received during the week of November 3-9, 1994: Bernice McCreary (Street), Elizabeth Holland (Water), Doris Burnett (Water), Tim Bell (Water), Henry Frisbee (Sanitation) and BellSouth Telephone (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:06 p.m.

William S. Holcomb, Jr.
CITY CLERK

MAYOR

Tuesday - November 29, 1994 - 7:00 p.m.
Montford Community Center

Community Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldrum; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

The following topics were raised by residents and addressed by City Council and City staff: lack of notification of this community meeting; importance of open and good communication; appreciation of the new resource center in Montford; importance of CityWorks; status of parking large trucks in residential areas; opposition and support of rezoning 5 lots in Montford; need for a street light in front of 177 Flint Street; good police presence in Montford community; explanation of a Pedestrian Task Force; Head of Montford Redevelopment Plan; success of community watch program; prohibition of truck traffic on Montford Avenue; need for holes on Courtland Place and Courtland Avenue to be patched; possible paving of Courtland Place; and need for sidewalks possibly from ABC revenues.

At 8:03 p.m. Mayor Martin adjourned the meeting.

William F. Wolcott
CITY CLERK

MAYOR

Tuesday - December 6, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 94-227 - RESOLUTION OF THE COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, EXTENDING AN INVITATION TO THE CITY OF KARAKOL, KYRGHYZ REPUBLIC, TO BECOME A SISTER CITY AND INVITING THE PEOPLE OF KARAKOL, KYRGHYZ REPUBLIC, TO PARTICIPATE IN THE PROGRAM

Mayor Martin read the resolution inviting the people of Karakol, Kyrghyz Republic, to participate in the Sister City Program. The Mayor of Karakol thanked the City for their hospitality during their visit and presented the Mayor, City Manager and Associate City Manager with hats of honor.

Councilwoman Sitnick moved for the adoption of Resolution No. 94-227. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 135

B. 1993 OUTSTANDING ACHIEVEMENT AWARD FOR THE CRIME PREVENTION UNIT OF THE ASHEVILLE POLICE DEPARTMENT

City Manager Westbrook said that the Asheville Police Department Crime Prevention Unit was honored as a recipient of an award by the N.C. Crime Prevention Officers Association. The award was one of eight given for Outstanding Crime Prevention Achievement in recognition to honor law enforcement agencies who have distinguished themselves in crime prevention. The award acknowledged the Unit for their program of Citizens on Patrol, Volunteer Handicap Parking Enforcement and the Citizens Police Academy.

Mayor Martin recognized Police Chief Will Annarino, Captain Michael Berry and Officer Allen Dunlap.

C. APPRECIATION TO THE CITY OF ASHEVILLE BY THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES FOR BEING THE 1994 CONVENTION HOST CITY

Mayor Martin said that in October the City hosted the 1994 North Carolina League of Municipalities Convention. The delegates at the League's convention adopted a resolution, which he read, expressing their appreciation for the hospitality extended by the City of Asheville in hosting the 1994 convention.

II. PUBLIC HEARINGS:

A. **CONTINUATION OF PUBLIC HEARING RELATIVE TO REZONING ONE LOT ON EMMA ROAD FROM R-5 RESIDENTIAL TO LI LIGHT INDUSTRIAL**

ORDINANCE NO. 2157 - AN ORDINANCE TO REZONE ONE LOT ON EMMA ROAD FROM R-5 RESIDENTIAL TO LI LIGHT INDUSTRIAL

Mayor Martin said that this public hearing was opened on November 15, 1994, and continued until this date.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance requests approval for the rezoning of one lot on Emma Road from R-5 Residential District to LI Light Industrial. The property is currently vacant with LI zoning on the north and south and R-5 zoning on the east and west.

Mr. Ownbey explained that Mr. David Owens who came before Council at the public hearing on November 15 was mistaken as to the property being requested to be rezoned.

Mayor Martin closed the public hearing at 4:34 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2157. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2157 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 328

B. **PUBLIC HEARING TO CONSIDER AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE OTEEN III ANNEXATION AREA**

Mayor Martin opened the public hearing at 4:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Senior Planner Patty Joyce briefed the Council on the Plan of services that provides information about the character of the area and the delivery of City services. She reported on the meeting that was held on November 29, 1994, with the community in which 4 out of 17 property owners attended. She noted that the City would lose a couple thousand dollars the first year of annexation, however, the following years would bring in approximately $100,000 annually.

Upon inquiry of Vice-Mayor Peterson, Ms. Joyce said that the estimated cost for the sewer line extensions will be $27,000 funded by the Sewer Construction Fund and $59,500 for water line extensions, funded through the Water Capital Improvement Fund.

Responding to questions raised by Councilman McClure, Ms. Joyce said that the Riceville Fire Department has no debt.

Ms. Joyce responded to questions by Council and Mr. H.K. Edgerton on what benefits this annexation would be to the residents.

There was some discussion about how this annexation came about and the reasoning behind it. City Attorney Slawter said that the VA Hospital asked to be annexed in order to stop paying the City of Asheville for fire protection services. City staff was instructed to look at enlarging the annexation area surrounding the VA Hospital in order to recoup some of the monies that it would lose when the VA Hospital stopped paying for that service.

Mayor Martin closed the public hearing at 5:02 p.m.

Mayor Martin stated that the first reading of this ordinance will be held on December 20, 1994.

C. PUBLIC HEARING TO DESIGNATE THE LOUGHRAN BUILDING, LOCATED AT 43 HAYWOOD STREET, AS A LOCAL HISTORIC LANDMARK

ORDINANCE NO. 2158 - ORDINANCE DESIGNATING PROPERTY KNOWN AS LOUGHRAN BUILDING AND LOCATED AT 43 HAYWOOD STREET AS A LOCAL HISTORIC LANDMARK

Mayor Martin opened the public hearing at 5:03 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Ms. Maggie O'Conner, Historic Resources Director, stated that the owners of the Loughran Building are seeking local landmark designation. Designed by noted Asheville architect Richard Sharp Smith, and built in 1923, the Loughran Building is a fine example of a Commercial style building with Sullivanesque influences. The Loughran Building is a six story, steel frame commercial building with a restrained white glazed terra cotta classically inspired facade. It is Asheville's earliest example of the Commercial genre of architecture popular nationally between 1890 and 1930, and is one of the City's best remaining examples of this genre. The entrance alterations made in the 1930s have attained significance in their own right. The Loughran Building retains an exceptionally high degree of integrity even though it has stood vacant since the 1960s.

Designation of this building as a local historic landmark makes the property owner eligible for a 50% reduction in property taxes. Currently the assessed value of the property is $384,300 and the total taxes paid for this year were $5,083.10. If the property continues to be underutilized and is designated historic, the taxes would be reduced by half to $2,541.55. However, the owners intend to rehabilitate this property if it is so designated.

The owners estimate the post rehabilitated tax value to be $2,640,000, with a total tax bill of $41,712. With the local historic designation the tax bill would be reduced by 50% thus the actual taxes paid would be $20,856. This represents an increase of $15,773 to the tax base on an annual basis. The proposed uses of the building are as follows: ground floor - retail space; 2nd through 6th floors - residential (5 apartments per floor).

Based on today's dollar, property tax revenues gained from the rehabilitation of the structure versus its current status over a 10 year period are $157,730; rehabilitated - $208,560; unimproved and vacant - $50,830.

In addition to the property tax increase, this project will create jobs (temporary and permanent), increase sales tax revenues, and increase household incomes.

Mr. Bill Baber, representative of the Historic Resources Commission, read a letter to Council in which the Commission unanimously supported the Loughran Building located at 43 Haywood Street be designated a local historic landmark.

Mayor Martin closed the public hearing at 5:11 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2158. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2158 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 330

D. PUBLIC HEARING RELATIVE TO REZONING 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL DISTRICT

Mayor Martin opened the public hearing at 5:12 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that James and Shirley Dozier are seeking approval from the City Council to rezone five lots on Montford Avenue from R-4 High Density Residential to CG Commercial General.

City staff recommended denial based on the following reasons: (1) the requested rezoning would constitute an encroachment of non-residential zoning into a large residential area; (2) development permitted by a CG designation would not be compatible with the existing character of the area; (3) the 2010 Plan indicates medium to high density residential uses for this area; and (4) the rezoning would compromise the 2010 Plan goal "to increase neighborhood livability and property values through the restoration and rehabilitation of existing and future historic districts." However, the Planning and Zoning Commission, after hearing comments at their October 5, 1994, meeting, voted 4-3 to recommend approval of the rezoning.

Upon inquiry of Councilwoman Sitnick, Mr. Matteson said that four of the five lots were zoned Central Business District until 1984 and then rezoned to R-4. The fifth lot was zoned R-4 prior to 1984.

Councilwoman Sitnick stated that not only are professional offices permitted in R-4 but that District also allows up to 65 units per acre, most types of offices and supporting commercial uses as accessories to residential development.

Ms. Elizabeth Graham, member on the Planning and Zoning Commission, briefed the Council on the Commission's reasoning behind their 4-3 decision to rezone the property. She said that it was a split opinion but the feeling was that even though the property was currently being used as an R-4, in order to encourage someone to purchase it or develop it, it would need to be zoned commercial general.

Upon inquiry of Vice-Mayor Peterson, Ms. Graham said that there were approximately 15-16 bed and breakfasts in Montford and that they were allowed in R-3 and R-4.

Due to the number of letters and phone calls received on what uses are allowed in the R-4 and Commercial General (CG) districts, Councilwoman Sitnick read the following:

R-4 Residences, home occupations, schools, churches, public facilities. Professional, service, executive, governmental, and administrative offices (no manufacture or sale of merchandise permitted). Dancing and music studios, studios of artists and tutors. Charitable organizations. Boarding houses, nursing homes, day nurseries and kindergartens, family care homes. Fraternal and philanthropic organizations, tailor and seamstress shops. Conditional use: Churches.

CG Any nonresidential use permitted in the high density residential district. Antique, book, camera and photo supplies, delicatessen, dairy products, floral, fruit, gift, novelty, hardware, jewelry, music, sporting goods, stationery, toy and similar stores. Bakery store, candy and confectionery store. Barber shops, banks, dental and medical offices or clinics, hotels and inn, assembly halls, tourist homes, commercial amusement enterprises, restaurants, skating rinks. Gardener supplies store, gasoline filling station. The following retail stores occupying a gross floor area of no more than 30,000 square feet: food stores, apparel and accessory stores, limited price variety stores, department stores, and drug stores. Public and private schools, libraries, community centers, parks, playgrounds, museums, art galleries, churches, nurseries and kindergartens. Residences meeting R-3 standards. Conditional uses: Automobile dealer, cocktail lounges, veterinary hospitals and clinics.

Vice-Mayor Peterson noted that even though cocktail lounges were mentioned, they were a conditional use and no alcohol could be served due to the proximity of the school.

Mr. Albert Sneed, attorney representing the Doziers who are the owners of the property, handed out a package of information to the Council. He said that his client currently has no plans for this property. He noted that this property is in the historic district so any plans would have to comply with the district guidelines. He said they explained the rezoning request to the Asheville School Board, the Principal of William Randolph Elementary School and the Superintendent of the County Schools and all stated that they had no position regarding the rezoning. The Housing Authority has the adjoining piece of property which has been zoned CH for eight years and, when asked, Mr. Holt said the Housing Authority had no position on this matter. He said that his client submitted a petition containing 70 signatures. He then reviewed the information he presented earlier, some of which was out of the 2010

Plan, and briefed the Council on why he felt the Planning and Zoning Commission recommended the change. It was his understanding that you cannot have any retail at all in R-4. He felt the staff was not correct in using the 2010 Plan as one of the reasons to deny the rezoning. He stated that if you read the Head of Montford Redevelopment Plan fairly, this area should have some kind of commercial activity in it. He said that this piece of property is not particularly good for residential since the tenants have had three robberies and burglaries in the past six months. He also felt that there was a lot of traffic along Montford. He felt the general thrust of the Plan is that there should be some trading in there. He said a community center should be in Montford. He felt the property should be zoned CG because the adjoining Housing Authority property is zoned CG. He felt the 2010 Plan and the Head of Montford Redevelopment Plan show the area to be consistent with neighborhood commercial. But, as he understands the law, if Council zones the property neighborhood commercial, someone will say it is spot zoning. He urged Council to rezone this property CG and if Council wants to come back and do a rezoning of the block that is different, then they can come back and do it, but don't make the Doziers wait because they have gone to a lot of expense to try and get this property rezoned.

Councilwoman Sitnick said that if there is no anticipated use, what is the purpose of changing the zoning. Mr. Sneed reiterated that Mrs. Dozier has no intention on selling the property, but the appropriate zoning needs to be in place that's appropriate for the land.

Councilwoman Sitnick wondered a wording amendment to the zoning ordinance would be appropriate in this case instead of rezoning this property. The wording amendment would be to the R-4 District to allow, for instance, a small grocery store, an antique shop, barber shop, things that surround the concept of neighborhoods. There are a lot of people impacted by this rezoning request that do have opinions, other than the School Board and Housing Authority which do not have an opinion on this request. She felt that since there are some commercial activity uses in R-4, could we expand some of those uses, perhaps limiting them to R-4 zoning districts that are along major thoroughfares.

Planning Director Julia Cogburn said that it is within Council's legislative purview to add any types of uses to any districts that are in the zoning ordinance. In this case, Council would have to look at all the areas that are zoned R-4, look at the intent of the R-4 district and make sure whatever uses you are allowing in that area met both that intent and met the character of the areas that are zoned R-4 right now. Because, you might be introducing some uses that may be appropriate to some R-4 areas, but not in others.

At the request of Councilwoman Sitnick, Ms. Cogburn read the uses permitted in the neighborhood commercial district.

Mr. Sneed said that they originally asked for the property to be zoned like it was prior to 1984 which was Central Business District but were told that it would be spot zoning. He assumed that neighborhood commercial would be spot zoning too.

Ms. Cogburn explained what kinds of tests would need to be applied if Council decided to rezone this property neighborhood commercial in terms of the possibility of illegal spot zoning vs. legal spot zoning.

The following persons spoke in opposition to the rezoning request for various reasons, including, but not limited to: a request to suspend all rezoning decisions until such time as the existing residential blight and traffic hazards in the neighborhood is corrected, majority of the community is opposed to the rezoning, people who signed the petition were lead to believe it was a choice between commercial rezoning or public housing, street will be changed into a Charlotte Street type-environment, residential character of the area will change, commercial general is too broad a classification, increase of traffic in the area, increase of commercial property at the Head of Montford before the impact of the Housing Authority's commercial development is felt, guarantees demolition of 4-5 historic residential properties, goes against advise of Planning staff, sets a bad precedent by allowing the commercial finger to project into a community that is at an important point in its revitalization, rezoning will allow legalized stealing, is there an overall game plan to rezone to CG with the other properties that are adjoining this property, there is a need for a buffer, this residential community is being chiseled away by commercial development, commercial activity is an invitation of deterioration and intrusion into a residential neighborhood, need for affordable housing that already exists on this property, and the need to postpone any action and revisit the Head of Montford Redevelopment Plan before taking action on this request:

Mr. Michael DeBruhl Blankenship, read a statement on behalf of property owners of Oak Terrace, the management of Woodcroft Apartments, the Montview Drive Neighborhood Association, neighborhood watch and other residents of the Claxton #3 precinct (also presented a display for the City's Attorney's Office)

Mr. Michael McDonough, 46 Tacoma Street
Mr. H. K. Edgerton
Ms. Dora Dawkins, 124 Courtland Avenue, President of Montford Community Club, Board President of NHS
Mr. Clarence Benton, 184 Courtland Avenue
Mr. Chris Conway, 264 Montford Avenue
Ms. Elizabeth Simpson, resident on Montford Avenue
Ms. Mary Jo Brezny, resident on Montford Avenue
Ms. Phyllis Stiles, resident on Courtland Avenue
Mr. Bill Baber, member of the Board of Directors of the Preservation Society and resident of 170 Montford Avenue, read a letter from Harry M. Weiss, Executive Director
Mr. Herb Cott, 133 West Chestnut Street
Mr. Kent Newell, 135 Cumberland Avenue
Mr. Mike Lewis, 48 Gracelyn Road and President of the Grace Neighborhood Association
Mr. Jim Skalski, President of the Coalition of Asheville Neighborhoods, resident of the Kenilworth community
Ms. Barbara Sayer, 12 Bearden Avenue
Ms. Fran Gardner, 9 Houston Street
Ms. Jane Gianvito Mathews, resident of Albemarle Park and member of the Planning and Zoning Commission
Ms. Myra Fuller, 162 Cumberland Avenue
Mr. Richard Stiles, 34 Courtland Avenue

Councilwoman Sitnick said that she found it curious that the 4 pieces of property that the Housing Authority paid $517,850 at the head

of Montford which does not include the cost of the demolition and the tree destruction that occurred, would be purchased for affordable housing. I find that a curious amount of money to pay for real estate to build four single family affordable houses.

Upon inquiry of Vice-Mayor Peterson, Mr. Larry Holt, representative of the Housing Authority, explained the Authority's planned use of this property and the planned use of the property that the Housing Authority owns on Short Street.

Mr. Larry Holt, representative of the Housing Authority, clarified the comment made by Mr. Sneed regarding the Housing Authority's position on this rezoning request. Mr. Holt said that he told Mr. Sneed that he was not going to make any comment at this public hearing, only to observe. However, the Housing Authority's position is to support the redevelopment plan as it currently exists which shows this property to be R-4 and the property owned by the Housing Authority in its present zoning is CG. He then explained the Authority's planned use of this property and the planned use of the property that the Housing Authority owns on Short Street.

Upon inquiry of Councilman Swicegood, Mr. Holt explained the reasons why the land that the Housing Authority owns has not been graded, seeded or landscaped yet. He hoped that it would be completed by the end of the year.

Councilwoman Field asked how the Housing Authority would feel if Council changed the zoning of their property from CH to neighborhood commercial in an attempt to come up with a better solution. Mr. Holt responded that the uses the Housing Authority anticipated for that property would have to be reviewed by the Planning Department and if those uses would be permitted under neighborhood commercial, then he didn't believe there would be a problem. However, he would have to clarify that point.

Councilwoman Sitnick questioned the cutting of the trees on the Housing Authority's property. Mr. Holt responded that he contacted the Tree/Greenway Commission in the spring of 1994, through Susan Roderick, and it was on their advice that the Housing Authority cut the trees and plant new trees to replace the ones cut as soon as the work is completed. He was also given this advise from the people who work with trees in the Parks and Recreation Department.

Ms. Susan Roderick, resident of Montford community, said that some of the members of the Tree/Greenway Commission went out and made a casual look at the situation. It did not come formally before the Commission. She said the trees wouldn't have been able to survive.

Mr. Holt responded to questions by Vice-Mayor Peterson about the amount of money spent on the Montford Redevelopment Plan to date.

Vice-Mayor Peterson suggested Mr. Sneed and his client meet with the neighborhood to see if a consensus might be reached by all concerned. Mr. Sneed responded that they would be happy to meet with the neighborhood. He said the Doziers would satisfied with a neighborhood commercial designation, just so it wouldn't be an illegal spot zoning.

Councilwoman Sitnick responded to a comment made by Councilman Watts about perhaps limiting the number of comments taken. She said that she respected her fellow Council members, respected the hour and respected the time that members of the public have given, but this is a public hearing and this is the one and only time that she has had an opportunity to hear this in full perspective. These folks took the time to get here today, probably getting tickets at the parking meters, and she would feel very remiss in our duty to the public that we serve if we were to cut them off and not let every single person who has something to say to speak. She would ask that you be as brief as possible and even to tell people don't repeat what's been said, but if you hear 20 people say the same thing, then you know there's real impact there rather than saying everybody has to say something different. For her, a public hearing is for the public and she wants to hear you. She would be opposed to cutting off this public hearing with two or three more comments. She feels that with every comment she's learning something new and she needs to have all the facts before she makes a decision, which is a real tough one for all of us.

Councilman Watts said that his comments were not made with the intent to cut anyone's comments off.

Ms. Elizabeth Graham stated that the Planning and Zoning Commission is on the line frequently with issues regarding the Housing Authority. Since April of 1994, the Commission has had come before them at least once a petition, which was later withdrawn, requesting that the Montford Redevelopment Plan be re-opened. Basically there were some people in the neighborhood that felt it had not worked and others in the neighborhood felt that it might had worked had it been administered by another party. Regardless of what Council does on the Dozier rezoning, she urged Council to give the okay to the Advisory Committee (appointed by the Planning and Zoning Commission and consisting of herself and Jane Mathews) the go ahead to get started working on taking another look at the Montford Redevelopment Plan. She insisted that before Council initiates another redevelopment plan in this City, this one needs to be solved.

Ms. Tammy Jones, daughter of the Doziers, urged Council to rezone this property that has been in her family for over 57 years. She couldn't understand why people did not want her parents to have their property zoned CG since the adjoining property is zoned such.

Councilwoman Sitnick said that "having listened with great interest and intensity to all of the comments, and this Council takes everything we hear seriously, but when it comes to the kinds of issues that divide the community, we take it even more seriously and most of us take it home with us. I would like to propose for the sake of resolution as Ms. Graham indicated there is a great need for before, I would like to move that we continue this hearing for the purpose of allowing all of the players to get together to understand what the vision is, to allow the Housing Authority to consider the possibility of down-zoning their property, to allow the Doziers and Mr. Sneed to consider their needs and may I point out that the Doziers have a right to have resolution on this just as much as the neighbors do. They have been held in limbo for a number of years because of the way they were dealt with early on. I would like to suggest that the neighborhood associations, I believe there are six of them, in addition to any individual members who live in the Montford area whether they are abutting the rezoning area or 15 blocks away from the rezoning area - if

you live in the neighborhood, you would be impacted - to consider in conjunction with the Planning Department the possibility and the legal implications and the implementing implications of changing the R-4 uses in order for the Plan to be understood, revisited, revised for a compromise solution to be arrived at. One that will consider all of the concerns here today." The date to continue the public hearing will be January 24, 1995, at 4:00 p.m. This motion was seconded by Vice-Mayor Peterson.

Councilman McClure asked to be excused from voting due to a conflict of interest by his owning property that adjoins the property in question. He felt there was an implied conflict of interest for him on this situation.

Councilwoman Field moved to table Councilwoman Sitnick's motion to continue the public hearing in order to consider excusing Councilman McClure from voting. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Vice-Mayor Peterson moved to excuse Councilman McClure from voting on this matter due to a conflict of interest. This motion was seconded by Councilwoman Field and carried unanimously.

Councilman Swicegood moved to reinstate Councilwoman Sitnick's prior motion to continue the public hearing until January 24, 1995. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick thanked everyone for their comments and especially Mr. Sneed for having waited to be on Council's agenda and for being willing to put this off in order to get together with everyone involved.

Mr. Stiles wondered if the January 24, 1995, date would be sufficient time for Ms. Cogburn to resolve the issues in Councilwoman Sitnick's motion. Ms. Cogburn said that if Council is looking at some type of compromise among the parties representing the neighborhood, adjacent property owners, the Doziers, Mr. Sneed, and the Housing Authority on these specific five lots, then January 24 would be okay. However, if Council is looking to opening up the redevelopment plan in general, the decision would impact many other considerations that would need to be involved and she would need more time.

Councilwoman Sitnick said that her original intent was not to just have it involve the adjacent property owners. There are only three historic districts in Asheville and anyone who is in Asheville has a stake in the way Montford evolves and she's not saying that we need to send notices to the 62,000 residents of Asheville, but certainly the folks here today or anybody else who wants to participate in those discussions should be permitted to. There are a lot of people involved in historic preservation who don't live in Montford. There are lot of people involved with commercial development who don't live in Montford and she felt that if Ms. Cogburn needed more time, not necessarily to re-do the redevelopment plan but to come up with some compromise language that will allow this particular issue to be resolved and then go beyond that in order to revisit the whole Plan, then tell us what you need to do it right.

Ms. Cogburn said that it is difficult to say how much time is needed until a meeting is held with the neighborhood. She said that if

Council is talking about an extensive public discussion of this issue then perhaps January 24 is too soon. If you are talking about coming up with a compromise dealing with specific interested parties, then we can do it by January 24.

Councilwoman Sitnick then amended her motion to move the public hearing until March 21, 1995. Vice-Mayor Peterson, who seconded her original motion, concurred with this amendment. Councilwoman Sitnick's amended motion was then voted on and carried unanimously which was to continue this public hearing until March 21, 1995.

Councilwoman Sitnick requested that adequate, proper notification be given by whatever means.

Ms. Shirley Dozier, owner of the property, wanted to know where did all the money go, why did her property get down-zoned and why was the Plan not followed through if it was a good plan.

At this time, 7:20 p.m., Mayor Martin announced a ten minute recess.

E. PUBLIC HEARING RELATIVE TO ZONING THE BREVARD ROAD ANNEXATION AREA

Mayor Martin opened the public hearing at 7:35 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that this ordinance would establish zoning for approximately 300 acres of the Brevard Road annexation (effective June 30, 1994) not previously zoned. Under state law the City has an obligation to zone all areas within the corporate limits.

On November 11, 1994, a notice was sent by Planning staff to 227 property owners making them aware of this public hearing. A community meeting was held on August 1 and two public hearings were held on September 7 and October 5, respectively. Throughout this process, dozens of statements, many conflicting, have been made by property owners and business interests concerning the best zoning for this area.

The Planning staff and the Planning and Zoning Commission recommendations are in agreement on 135 of the 152 properties, but differ on 17 properties.

There are only two property owners that are proposed for commercial that are currently developed as residential and they want to remain residential - Mrs. Stevens on Lot 58 and Mrs. Gentry and her family on Lot 2.

By using maps, discussion took place regarding where the different zoning classifications were proposed.

Mr. Terry Gentry, Mr. Ronnie Gentry and Ms. Susan Gentry all urged Council to zone their land, which has been in their family for over 100 years, residential.

Upon inquiry of Councilman Swicegood, Ms. Cogburn stated that if the property were zoned HI Heavy Industrial as the Planning & Zoning Commission recommends, the Gentry home would then be a non-conforming use in the HI zone. If 75% of the house was destroyed, they could not rebuild it.

Councilman Swicegood suggested that this public hearing be postponed in order to give him an opportunity to visit the properties in question.

Vice-Mayor Peterson moved to continue the public hearing until December 20, 1994. This motion was seconded by Councilman Watts and carried unanimously.

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF AN ORDINANCE TO PARTIALLY REZONING 1389 PATTON AVENUE FROM R-3 MEDIUM DENSITY RESIDENTIAL TO CH COMMERCIAL HIGHWAY DISTRICT

Planning Director Julia Cogburn said that the petitioner has withdrawn his petition and this matter is moot. Ms. Cogburn said basically the Planning Department looked again at the interpretation of a particular section in our ordinance which talks about professional offices conditional uses in the R-3 zone. We determined that this lot, as it was split zoned, the entire lot could be used for professional office including the parking on the section that is zoned R-3 at this time. That seemed to be an amicable decision for both the neighborhood and the property owner and his agent.

Councilwoman Sitnick thanked Ms. Cogburn and Mr. Carl Owenby for being able to work the matter out.

Upon inquiry of Ms. Robin Kastlor, 29 Lucerne, Ms. Cogburn answered her concerns relative to an exit on the R-3 property.

IV. NEW BUSINESS:

A. CONSIDERATION OF AN APPLICATION FOR A LICENSE FOR A MASSAGE THERAPIST

Ms. Deborah Crowder, Revenue Manager, said that Ms. Bettie Woodson is relocating to the City of Asheville from the State of Colorado. She will be employed by a local beauty salon as a massage therapist. She seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City Code.

City staff has reviewed Ms. Woodson's application and all pertinent requirements have been met.

Vice-Mayor Peterson moved to approve the application for a license for Ms. Bettie Woodson to practice the profession of a massage therapist. This motion was seconded by Councilman McClure and carried unanimously.

Mr. H. K. Edgerton questioned, among other things, how many of these type businesses does the City of Asheville currently license.

Councilwoman Sitnick said that she has medically benefited from massage therapy for a number of years. Massage therapy and massage therapists differ vastly from massage parlors as we may have known them in the old days. Not that they may not exist still, but massage therapy is a medically accepted, medically recommended therapy for people with certain muscular skeletal conditions. Massage therapists are sometimes engaged through recommendation by physicians and by chiropractors. Massage therapy has been used very successfully in this country for many years. Our ordinance does create certain conditions that need to be met and Ms. Woodson is a very professional therapist who has recommendations. There needs to be that distinction - this is not about massage parlors as we may know them from history and the movies.

B. RESOLUTION NO. 94-228 - RESOLUTION ADOPTING THE FINDINGS OF DISPARITY IN CITY CONTRACTING AND ADOPTING AN AMENDED MINORITY BUSINESS PLAN

Mr. Marvin Vierra, Community Development Director, said that the Minority Business Commission has reviewed the findings and recommendations of the Minority Business Disparity Study. The Commission has also recommended adoption of amendments to the Minority Business Plan to effect the recommendations of the Disparity Study.

On September 20, 1994, the Commission met with City Council to review their recommended amendments to the Plan. After review of the recommended changes with City staff, staff recommended certain administrative revisions to the recommendations of the Commission. The staff revisions were discussed with the Commission on December 1 and the Commission recommends approval with the staff revisions.

Mr. Ronnie Blythe, member of the Minority Business Commission, made a brief presentation on the background of the plan and how the amendment has now come before the Council. The two issues before Council today is (1) the acceptance and adoption of the disparity study which was completed approximately one year ago, and (2) look at the amended Minority Business Plan, which incorporates the findings and recommendations of the consultants and the MB Commission, and adopt a new Plan.

Mr. Steve Humphrey, representative of MGT of America, explained that his company has conducted 27 disparity studies for jurisdictions throughout the country. He discussed extensively the technical aspects of the development of the disparity study and how the percentages and numbers were generated. He said the study was done very carefully to confirm with the decisions that the court rendered in Croson and interpreted by subsequent decisions. This particular study addressed the issues of how well minority and women businesses have been utilized and the degree to which they were available to provide services within Asheville's market area. The basic result of the study was that there was substantial under-utilization. Based on that fact, this study recommended a number of recommendations as to how the program could be tailored and how that program could operate. Much of that has been brought forth in the plan submitted by the Minority Business Commission.

Mr. Humphrey answered questions from Council on specific items dealing with why Chicago is our market area for professional services and assured the Council that the goals in the Plan are realistic.

Councilwoman Field was concerned about the Council setting up a situation where we are in conflict with one of our policies - which is to buy local. Since Asheville doesn't have 37% of availability in

professional services by minority and women firms in Asheville, we are forcing ourselves to meet our goals by going outside the area. She wants to give business to minority and women firms in the Asheville area more than she wants to meet a goal.

Mr. H. K. Edgerton wanted Council's assurance on their commitment of the Plan. Among other things, he felt the move of the administration of the MB Plan to Purchasing was in error.

Mr. Jim Drummond, representative of the Black Business and Professional League, spoke about awarding the contracts and continued participation on enforcement and monitoring. He wanted to make sure there was constant monitoring for front organizations.

Ms. Jane Gianvito Mathews questioned the "Declaration of Policy" as contained in the amended Plan as it relates to architectural and engineering services. She relayed an instance to Council about a request for proposals received from the City. She said that architects and engineers do not bid their services. Architects cannot bid a project that has not yet been defined. Professional services, in particular architects and engineers, fall under other guidelines that are statutory in the State of North Carolina.

City Attorney Slawter said that City Council, in 1988, adopted a policy for the procurement of architectural and engineering services. It sets forth the procedure by which those services are to be secured. He then suggested Council add the following paragraph to the "Declaration of Policy" section in the Plan even though essentially the same language is on Page 3 of the Plan: "this policy is not intended in any manner to require that contracts be awarded to anyone other than the lowest responsible bidder, nor to supersede the requirement of any federal, state or local laws and rules, regulations and policies adopted pursuant thereto."

Mr. Joe Webster, representing the A-B Community Relations Council, stated concerns regarding implementation of the Plan. Among other things, he was concerned about the administration of the Plan going to the Purchasing Division.

Mr. Clarence Benton urged Council to make a commitment to the Plan and to make the Plan work. He also stated his concern over the move of the administration of the Plan.

Councilman Swicegood read the following statement from Mr. Larry R. Linney: "I, the undersigned, Representative-Elect, Larry Linney, wish to express concern with the revised Minority Business Plan, (particularly the administrative changes and relocation of the Program). I wish to ask for additional time to submit written comments. I am unable to remain at the public hearing because of prospective legislative duties. Thank you for your consideration."

Councilwoman Sitnick said that considering the comments about the continued concern by some members of the Commission and others, she felt it might be a good idea for a periodic review. She was sure that the review is part of the program itself, but to just to make sure that the administrative changes are working as well as the Plan. If not, she hoped that we could maintain enough flexibility to adjust those changes to make sure that the program is being implemented, monitored and enforced properly.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 94-228. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 136

C. BUDGET AMENDMENT TO FUND A CITY-WIDE PAY AND CLASSIFICATION STUDY

Ms. Pam McGrayne, Personnel Director, said that the last City-wide pay and classification study was conducted in 1988. As a result, a new pay and classification plan was implemented July 1, 1989. Since implementation of the plan, the City has undergone several reorganizations due to several changes and a reduction in positions. As a result, many employees are working in classifications which no longer represent the work they actually perform. In addition, City salaries are at least 10% behind the market.

At the October 11, 1994, City Council meeting, staff was authorized to proceed with receiving proposals to review the City's pay and classification plan. Staff was further asked to prepare a budget amendment ordinance to appropriate the funds ($80,000) for the study.

She explained each of the three broad components to this study that the firms have been requested to bid on: (1) update the City's classification plan, and inclusion of a multi-purpose job analysis procedures in the classification plan; (2) pay plan; and (3) review of the City's compensation program.

Councilman Watts expressed concerns about the Management by Objectives evaluation procedure.

Vice-Mayor Peterson felt that police, fire and sanitation employees are not being compensated enough for their jobs.

There was some discussion about the City's ability to perform the study in-house. Ms. McGrayne said that the City staff could perform some aspects of the study, but the project is a massive one involving a lot of technical aspects.

City Manager Westbrook said that once the study has been performed, the City can update it on an annual basis from in-house staff.

Councilwoman Sitnick wondered if we just did a study on the classification plan if that would that reduce the $80,000 request. Earlier today she asked the City Manager to provide the Council with an accurate total on all the money the City spends on consultant and study fees. She felt the total figure would boggle our minds. At a time when the City's budget is so tight, when everybody has cut back, and when police, fire and sanitation workers are working at much lower salaries than across the state, it's hard for her to justify $80,000 for a study that doesn't even cover the budget requirement to implement the recommendations. It seems to her that with all of the computer and technical capabilities that we have today that there should be some way

for us to buy the software or utilize what we have and come up with as much information as possible in order to not have to spend $80,000 for another study. She agreed that this is essential to do. She knows that it doesn't take a whole lot of money to know that our police and fire are not getting enough money. We've known that for years and she's known that before coming onto Council. She would like to figure out what we can do in-house and then find out what the cost.

Ms. McGrayne said that she has done some research to determine what it might cost to do individual components of the study. She asked the firms bidding on the study to break down the specific services so that if we were only able to fund certain aspects, we would have comparable bids in that area as well. Because the bid deadline will not be until December 14, any figures would be only estimates.

Discussion then surrounded ways to reduce the $80,000.

Councilman Swicegood stated that he could not support spending the $80,000 and would like to see what services could be provided in-house with possibly some help from the N.C. League of Municipalities.

Council instructed the City Manager to bring this matter back on December 20 (after the bids were received) and present the Council with a monetary breakdown by components.

Councilwoman Field moved to table this issue until December 20, 1994. This motion was seconded by Councilman Watts and carried unanimously.

D. ORDINANCE NO. 2159 - BUDGET AMENDMENT TO ESTABLISH AN APPROPRIATION TO PAY THE GENERAL FUND PORTION OF MSD SEWER BILLS FOR FISCAL YEARS 1993/94 AND 1994/95

Mr. Bob Wurst, Audit and Budget Director, said that City Council has agreed to pay MSD sewer charges to City facilities effective July 1, 1993. The total General Fund appropriation to cover 1993/94 and 1994/95 is $119,558. There is adequate funding in other City locations (water fund) to cover the cost.

The City historically has not paid for water or sewer utilities at public facilities, such as Parks and City buildings. In 1989 the City turned over its sewer system to MSD. In 1993 MSD notified the City that it expected payment for sewer services even though it pays no in lieu of tax as does the Water Authority.

Vice-Mayor Peterson instructed the City Manager not to disburse any money until the amount MSD owes the City for previously agreed upon sewer line extensions has been paid in full.

Councilwoman Sitnick stated that if MSD gives the City any more grief on this that we either up our billing charges or stop billing for them.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2159. This motion was seconded by Vice-Mayor Peterson

On a roll call vote of 7-0, Ordinance No. 2159 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 332

E. ORDINANCE NO. 2160 - BUDGET AMENDMENT FOR CONTINUED FUNDING FOR RECYCLING DROP CENTERS

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $18,400, increases the appropriation for the contracted services required to maintain our two city-sponsored recycling drop sites. The proposed amendment will allow us to continue to pay for this service until July 1, 1995.

Over three years ago, Council approved a budget to pay a private contractor to service and maintain the City's first recycling drop center at the Lowe's store in west Asheville. Approximately 18 months ago the Council agreed to also support a second site, which is now located at the intersection of McCormick Field Extension and Biltmore Avenue.

The monthly cost to operate both sites is approximately $2,300. We usually receive about $300 a month in revenue, which offsets our expenses for the program.

Councilwoman Sitnick asked the City Manager to investigate a concern surrounding the County dropping the ball and creating an additional burden on the City as it relates to recycling.

Mr. Wurst answered specific questions from Councilman Swicegood as they related to the avoidance of paying tipping fees as a result of recycling.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2160. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2160 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 334

F. ORDINANCE NO. 2161 - BUDGET AMENDMENT TO APPROPRIATE FUNDS NEEDED FOR URBAN TRAIL PHASE III

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $48,245, will appropriate the budget needed for the Urban Trail, Phase III budget. This is the third year in which we have requested this budget amendment. Funding for the Urban Trail stations is obtained from private and community donations. Funding is based on projections of which stations will be selected by donors and the purchases needed to complete those stations and this phase of the project.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2161. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2161 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 336

G. ORDINANCE NO. 2162 - BUDGET AMENDMENT TO SET UP THE 1994 APPROPRIATIONS FOR THE LIGHT UP YOUR HOLIDAYS FESTIVAL ACTIVITIES IN THE FESTIVALS FUND

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $61,200, will set up the 1994 appropriations for the Light Up Your Holidays Festival activities in the festivals fund. The City Development Office and other community organizations have worked together to support and promote the Light Up Your Holidays 1994 Festival. This appropriation supports the activities associated with the Festival. This amount is supported by fees for those activities.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2162. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2162 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 338

H. ORDINANCE NO. 2163 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR RICHARD SHARP SMITH EXHIBIT

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $49,520, will establish a budget for the Richard Sharp Smith Exhibit. Funding will e provided by local and state grants and donations. They expect this event to draw 35,000 people.

Councilwoman Sitnick thanked Ms. Maggie O'Connor, HRC Director, for finding and maintaining the integrity of these delicate drawings and bringing to Asheville and exhibit that showcases one of the finest architects in our area.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2163. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2163 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 344

I. ORDINANCE NO. 2164 - BUDGET AMENDMENT TO APPROPRIATE CDBG FUNDS FOR OPPORTUNITY CORPORATION MATCH

Mr. Bob Wurst, Audit/Budget Director, said that the Opportunity Corporation of Madison-Buncombe Counties has requested a budget amendment of the remaining balance of the CDBG funds appropriated for the weatherization program. The balance of $7,835 will be used as a portion of the match for a state grant to the Opportunity Corporation.

The Opportunity Corporation has been awarded a grant of $10,000 from the N.C. Department of Health and Human Services. The State grant requires a match of $10,000 from the Opportunity Corporation. The State will allow the use of CDBG funds as match. There is a remaining balance of $7,835 CDBG appropriation for the Opportunity Corporation's weatherization program. The Opportunity Corporation will use the State grant and the CDBG match, along with Opportunity Corporation funds of $2,165 to assist the City with implementation of its Empowerment Zone/Enterprise Community Strategic Plan.

Council members thanked Ms. Dee Williams, Executive Director of the Opportunity Corporation, for the fine job she has been doing.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2164. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2164 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 346

V. CONSENT:

Councilman McClure asked that Item "C" concerning execution of an amendment to an agreement by and between the City of Asheville and the United States of America for fire protection services to the Veterans Affairs Medical Center be removed until a decision regarding annexation is reached on December 20, 1994.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 15 AND NOVEMBER 29, 1994

B. RESOLUTION NO. 94-229 - RESOLUTION AMENDING THE WATER AGREEMENT TO ALLOW THE APPOINTMENT OF THE HENDERSON COUNTY MANAGER AS A MEMBER OF THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

Summary: On June 28, 1994, the A-B Water Authority, the City of Asheville, and the County of Henderson signed a Regional Water Agreement which granted for the City and the Water Authority the right to purchase a site for a water treatment plant in Henderson County. As part of this agreement, Henderson County is allowed to place two new voting members on the Water Authority.

Henderson County has requested that it be permitted to initially appoint David Thompson, Henderson County Manager, to the Authority for the first two years of a three year term. Henderson County makes this request so that they can have a representative who has experience with water systems and administration.

Henderson County understands that this appointment is an exception to the provisions of the Supplemental Water Agreement and the Authority's bylaws, and that after the initial two years he shall not be eligible for reappointment.

RESOLUTION BOOK NO. 22 - PAGE 137

C. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE UNITED STATES OF AMERICA FOR FIRE PROTECTION SERVICES TO THE VETERANS AFFAIRS MEDICAL CENTER**

This item was deleted from the Consent Agenda.

D. **RESOLUTION NO. 94-230 - RESOLUTION AUTHORIZING RELOCATION OF AN ABOVE-GROUND STORAGE TANK FOR HERTZ CAR RENTAL AGENCY AT ASHEVILLE REGIONAL AIRPORT**

Summary: The Hertz Car Rental facility at the Asheville Regional Airport is seeking City Council approval of a relocation of an existing above-ground gasoline storage tank in connection with a renovation of its service facility.

RESOLUTION BOOK NO. 22 - PAGE 139

E. **RESOLUTION NO. 94-231 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT**

Summary: The terms of Ernest Melin and Ellen Lyda as alternates on the Board of Adjustment expire on January 21, 1995. This resolution will appoint R. Dennis Weaver and G. Diane Westmoreland as alternates to the Board of Adjustment for three year terms respectfully, terms to expire January 21, 1998, or until their successors are duly appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 140

F. **RESOLUTION NO. 94-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE LOWEST QUALIFIED BIDDERS FOR INSTALLATION OF CARPET IN THE THOMAS WOLFE AUDITORIUM AND RENOVATION TO THE THOMAS WOLFE AUDITORIUM**

Summary: The Civic Center is requesting the City Council award bids for carpet and renovations to the Thomas Wolfe Auditorium to update the facility and make the public spaces comply with the Americans with Disabilities Act ("ADA").

Capital improvements were approved in a prior year for the renovations to the Thomas Wolfe Auditorium. The Civic Center Commission worked along with the Director to establish priorities for the project.

Improvements include new carpet throughout, improved wheelchair access, changes to the main steps in the lobby, and wheelchair seating improvements.

Along with and beyond these costs, students from A-B Technical College will begin painting changes to restore the theater to the art deco period it was created in.

Bids for carpet installation were solicited from three companies who are the area representatives of the carpet manufacturing mills whose

product meets the bid specifications and who are listed as being suppliers and installers of carpet on the "State Contract" list. Bids for carpet installation were also solicited by advertisement in the Asheville Citizen-Times. Biltmore Village Carpet Inc. was the only bidder for supplying and installing the carpet, with a bid amount of $60,551, which includes the Base Bid and Alternate 1. A copy of the tabulation of bids is attached hereto as Exhibit "A".

Bids for renovation to the Thomas Wolfe Auditorium were solicited from seven contractors, including three minority businesses who have been certified by the Minority Business Commission of the City of Asheville. J. Cole Construction Company submitted the lowest responsible bid in the amount of $96,300, which includes the Base Bid and Alternate 2. A copy of the tabulation of bids is attached hereto as Exhibit "B".

Councilwoman Sitnick questioned the use of red wine in the Civic Center when spilled on the carpets.

RESOLUTION BOOK NO. 22 - PAGE 141

G. MOTION SETTING A PUBLIC HEARING ON DECEMBER 20, 1994, TO AMEND THE ZONING ORDINANCE TO ALLOW BANKS AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

Vice-Mayor Peterson moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of November 10-16, 1994: Richard Soderquist (Parks and Recreation) and Carter Cove Road (Water).

He said the following claims have been received during the week of November 17-30, 1994: Danny Gross (Streets), Brenda Chapman (Water), Robert W. Penland (Water), Geraldine Baird (Water) and Ray Carson (Civic Center).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 10:04 p.m.

William D. Holcomb, Jr.
CITY CLERK

MAYOR

Exhibit A

TABULATION OF BIDS

FOR

THOMAS WOLFE AUDITORIUM
CARPET CONTRACT BIDS

CITY OF ASHEVILLE
PARKS AND RECREATION DEPARTMENT
P.O. BOX 7148
ASHEVILLE, NC 22902

(704) 259-5800

Contractor	Privilege Lic. No.	Bid Bond if Required	Base Bid Amount	Alternate # 1	Alternate # 2	Alternate #
GRAY FLOORING			NO BID			
BILTMORE VILLAGE CARPET			42,456	+1,016	47,079	
PEARLMAN'S CARPETS			NO BID			

This is to certify that this is an exact copy of the Tabulation of Bids received for the above named project in the City of Asheville, North Carolina, at 4:00 a.m. (p.m.); on the 18th day of Nov., 1994.

[signature]

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Exhibit "B"

TABULATION OF BIDS

FOR

RENOVATIONS TO THE THOMAS WOLFE AUDITORIUM

CITY OF ASHEVILLE
PARKS AND RECREATION DEPARTMENT
P.O. BOX 7148
ASHEVILLE, NC 22902

(704) 259-5800

Contractor	Privilege Lic. No.	Bid Bond if Required	Base Bid Amount	Alternate # 1	Alternate # 2	Alternate # 3	4
J. COLE CONSTRUCTION CO		YES	93,200	-7,600	+3,100	+9,800	-17,600
BUNCOMBE CONST. COMPANY		YES	115,195	-6,500	+2,625	+3,710	-12,5
A & B. CONSTRUCTION CO.		YES	133,462	-7,566	+1,368	+4,660	-24,403
H & M CONSTRUCTORS			NO BID				
P.P.M.C. INC.			NO BID				
A. D. GRANT			NO BID				
LORDMAN CONSTRUCTION			NO BID				

Pre-bid meeting

Pre-bid meeting

This is to certify that this is an exact copy of the Tabulation of Bids received for the above named project in the City of Asheville, North Carolina, at 3:00 a.m. (p.m.) on the 1st day of Dec, 1994.

[redacted]

Tuesday - December 20, 1994 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Associate City Manager/City Clerk William F. Wolcott Jr.

Absent: None

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. RECOGNITION OF WILLIAM F. WOLCOTT JR., ASSOCIATE CITY MANAGER/CITY CLERK

City Manager Westbrook recognized William F. Wolcott Jr., Associate City Manager/City Clerk, who will be retiring effective January 1, 1995, after 45 years of service to the City.

Mr. Westbrook stated that the City Council will be hosting a reception in Mr. Wolcott's honor in the very near future and invited City employees as well as the public.

B. PRESENTATION OF AWARD FOR EXCELLENCE IN AFFORDABLE HOUSING

Community Development Director Marvin Vierra said that the N.C. Housing Finance Agency presented "Housing North Carolina Awards" for five projects in North Carolina on December 8, 1994, in Raleigh, N.C. The City of Asheville received an award for its contribution to the Affordable Homeownership Program administered by Mountain Housing Opportunities Inc. The program is funded by the City through the Community Development Block Grant Program.

Mr. Scott Dedman, Mountain Housing Opportunities Inc., thanked the City Council for their support.

Mr. Vierra then presented the award to the Mayor and City Council.

C. COMMENTS BY MINNIE JONES

Ms. Minnie E. Jones, West Asheville community leader, read "I wish to thank you all personally for the gift you have given to the citizens of west Asheville, especially the children, for the work on Wellington Street. We have been waiting for a long time for this to happen. There is no better time to come forward and say thank you for a job well done than at Christmas. I wish you and yours a very merry Christmas and a prosperous New Year."

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING RELATIVE TO ZONING THE BREVARD ROAD ANNEXATION AREA

ORDINANCE NO. 2165 - ORDINANCE TO ZONE THE BREVARD ROAD ANNEXATION AREA

Mayor Martin said that this public hearing was opened on December 6, 1994, and continued until this date in order to give additional time to Council to go out and see the properties first-hand.

Mr. Paul Benson, Urban Planner, refreshed Council's memory by stating that this ordinance would establish zoning for approximately 300 acres of the Brevard Road annexation (effective June 30, 1994) not previously zoned. Under state law the City has an obligation to zone all areas within the corporate limits.

The Planning staff and the Planning and Zoning Commission recommendations are in agreement on 135 of the 152 properties, but differ on 17 properties.

There are only two property owners that are proposed for commercial that are currently developed as residential and they want to remain residential - Mrs. Stevens on Lot 58 and Mrs. Gentry and her family on Lot 2.

Upon inquiry of Councilman Swicegood, Mr. Benson said that residential is allowed in a CH district, but not in the CS district. If Council chose to zone the Stevens property to CS, the house would be a nonconforming use in that district.

Mayor Martin closed the public hearing at 4:36 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2165 as proposed by the Planning and Zoning Commission, with the exceptions that Lot 58 owned by Mrs. Stevens be zoned CH District and Lot 2 owned by the Gentrys be zoned R-5. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2165 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 348

- **CHARLOTTE STREET CORRIDOR**

Councilwoman Sitnick moved to withdraw the resolution directing the administration to initiate a small area plan for the Charlotte Street corridor from the Consent Agenda and place it under New Business. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. **PUBLIC HEARING RELATIVE AMENDING THE ZONING ORDINANCE TO ALLOW BANKS AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT**

ORDINANCE NO. 2166 - ORDINANCE AMENDING THE ZONING ORDINANCE TO ALLOW BANKS AS A PERMITTED USE IN THE OI OFFICE INSTITUTIONAL DISTRICT

Mayor Martin opened the public hearing at 4:40 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that this ordinance would amend the zoning ordinance to allow banks, bank branches and similar institutions as permitted uses in the OI District. Banks, bank branches and similar institutions are currently conditional uses in the District. The Planning staff feels that this land use is appropriate in the OI District and that there is no need to attach additional conditions to this use.

The Planning & Zoning Commission, at their meeting on December 7, 1994, voted unanimously to recommend this wording amendment.

Mayor Martin said that eight phone calls have been received opposing this amendment.

Upon inquiry of Councilwoman Field as to why all the opposition, Councilwoman Sitnick felt that most calls were probably from the Montford neighborhood. It was her understand that the neighborhood feels that the Highland Park property, which is zoned OI, would allow banks and then what would be next permitted use in OI.

Ms. Jane Gianvito Mathews stated concern on how we apply the OI district in the future.

When Councilwoman Sitnick inquired about if the Planning and Zoning Commission considers OI as a transitional district, Ms. Mathews felt that in the past it has been used as a transitional zoning adjacent to residential areas.

Councilman McClure addressed some of the concerns and felt that banks would be a very consistent part of this particular zoning noting that banks blend with the particular neighborhoods they are in.

Councilwoman Sitnick expressed to Council that should there be further requests for additional permitted uses in OI, Council pay mind to the fact that it is in some cases OI is considered a buffer between residential neighborhoods and commercial neighborhoods and that we should exercise extreme caution in allowing additional uses in OI districts.

Mayor Martin closed the public hearing at 4:48 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2166. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2166 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 354

C. PUBLIC HEARING TO REZONE 15 LOTS ON PISGAH VIEW ROAD

Mayor Martin opened the public hearing at 4:49 p.m.

City Clerk Wolcott presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance will rezone 15 lots on Pisgah View Road from R-3 Residential District to R-5 Residential District. The subject area contains five mobile homes, eight residential structures, and one church. The area immediately adjacent to the subject area contains eight mobile homes.

The petitioner's mother owns .65 acres in the area and the petitioner wishes to place a mobile home next to her mother's so she can take care of her. However, the .65 acre piece of property cannot be rezoned R-5 or it would be considered illegal spot zoning. The Planning staff gave direction to the petitioner by encouraging her to obtain signatures of the surrounding property owners to see if they would want their property rezoned to R-5 and the petitioner has done that. The rezoning petition before the Council is to rezone approximately 18 acres in the area.

The Planning staff recommended approval of the rezoning based on the fact that the area is developed currently with many manufactured homes.

At the meeting of the Planning and Zoning Commission ("Commission") on October 5, 1994, there were several property owners adjacent to the subject area that were opposed to the rezoning of such a large area of land. Discussion arose as to the validity of the rezoning petition. The Commission then tabled any decision on this petition pending verification of the rezoning petition. On November 2, 1994, the Commission again reviewed the rezoning request and received affirmative information from Planning staff that the names on the rezoning petition were accurate. The Commission then approved the rezoning request.

Mr. Ownbey said that a valid protest petition was filed on December 15,1994, invoking the 3/4's vote requirement.

Councilwoman Sitnick wondered why the petitioner did not go to the Board of Adjustment for a variance based upon a hardship, especially in view of the fact that zoning is to be done for the good of the community rather than for the good of one or a small group. Mr. Ownbey responded that this could not go to the Board of Adjustment because it would be considered a use variance which is not allowed in the State of North Carolina. The only recourse the petitioner had was to get the property rezoned.

Mr. Jim Fagan, resident of the surrounding area, stated the following reasons that this rezoning petition should be denied:

1. This proposed amendment would be contrary to the "City of Asheville Rezoning Process" which states that there must be convincing demonstration that all uses permitted under the proposed zoning classification would be in the general public interest and not merely in the interest of an individual or small group of individuals.

2. The rezoning would lower the surrounding property owners property values.

3. The proposed rezoning of 18 acres for the only reason stated, being to allow the placement of one mobile home on one .65 acre lot is zoning with no planning.

4. The proposed rezoning would open the door to a potentially large mobile home park or other land uses that could overburden water and sewer capacities as well as add to an already heavy traffic problem.

5. This proposal would make available other land uses that would not be compatible with higher and better land use such as single family houses.

6. Through the years, many people have invested much time and money in improving their property. Their goal is to upgrade their neighborhood. This proposal would definitely have a negative impact on our neighborhood.

Mr. Robert Lee hoped that a variance could be granted to the petitioner.

Ms. Melody Fish, petitioner, pleaded with Council to let her place a mobile home next to her mothers so she could take care of her. She didn't want the community in disagreement but this rezoning is the only way the mobile home could be built in there. She stressed that the addition of the mobile home would not downgrade the community.

At the request of Councilwoman Sitnick, Planning Director Julia Cogburn read the uses allowed in the R-5 district.

Ms. Betty Fagan reiterated her husband's comments above strongly urged Council to deny the rezoning request.

Ms. Betty Gantt and Ms. Nan Corbin also spoke against the proposed rezoning.

Councilwoman Field instituted some discussion about the possibility of reducing the amount of property to be rezoned to perhaps seven acres in order to accommodate the petitioner's request. She asked if there was any willingness amongst the neighbors and the petitioner to meet and look at some alternative solutions.

Mr. and Mrs. Fagan responded that they did not want any of the property to be rezoned to R-5.

Mayor Martin closed the public hearing at 5:32 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick said that just as it is true as the State law is regarding granting use variances so is the law that regulates our attitude toward zoning and the law clearly states that zoning is to be done for the good of the community, not for the good of one or a small group of individuals. One of the reasons has been pointed out and that's because if this area is zoned R-5 what's to say that in a few years property owners might choose to sell that property and some of these other more intense uses come in the area. Then what you have is a zoning that is based on compassion for one person's situation and make no mistake about it, we have compassion for the petitioner's situation. She took care of her own mother. She was lucky enough to have her in her home with her but she realizes that not everyone can have that luxury. But how is Council to address the property values, the

investments, the lifestyles, and the quality of life that's been established by dozens of other people in the area. This is one of those times when people who get elected to office aren't so sure it wasn't the right thing to do. It's very, very difficult for Council. But if Council is to follow the law in this case then we have to vote to deny this request. I would hope however, that in keeping with the intent of this Council that the parties involved can get together in order to see if they can come up with a compromise that would work. Maybe Council needs to look at the authority of the Board of Adjustment that is at this point is unable to grant a use variance for a situation like this based on hardship. I would like to see if something could be worked out.

Councilman Swicegood moved to deny the request to rezone 15 lots on Pisgah View Road. This motion was seconded by Councilman Watts and carried on a 6-1 vote with Councilwoman Field voting "no". Councilwoman Sitnick said that her vote was based on the law regarding zoning.

III. UNFINISHED BUSINESS: NONE

IV. NEW BUSINESS:

A. RESOLUTION NO. 94-233 - RESOLUTION DIRECTING THE ADMINISTRATION TO INITIATE A SMALL AREA PLAN FOR THE CHARLOTTE STREET CORRIDOR

Ms. Julia Cogburn, Planning Director, said that the Planning and Zoning Commission requests that the City Council approve a resolution directing the Planning staff to initiate a small area plan of Charlotte Street corridor. The proposed plan would be presented to the Planning and Zoning Commission for consideration and then to City Council for review and adoption.

Mr. Rich Mathews, property owner in Albemarle Park, spoke at length about how this idea has come about and how the plan will maximize all property values in the area, address the needs of the whole area, and will give Asheville a better entrance to north Asheville.

Vice-Mayor Peterson urged the neighborhood associations to notify all the business owners along Charlotte Street and all property owners in the area so that they may have input into the plan if they so desire.

Upon inquiry of Councilman Swicegood on what role the City would play in this, Councilwoman Sitnick said that the City's role would be to create a concept or a vision for a particular thoroughfare.

Councilwoman Field wanted to make sure that Ingles was involved in the corridor plans. She suggested that since Charlotte Street is on the Transportation Advisory Committee's plan for improvement, that representatives of the area meet with the Committee.

Councilman McClure wanted to make sure there would be no duplication efforts with this plan and the work being done on the Unified Development Ordinance.

Councilwoman Sitnick explained the newly formed Pedestrian Awareness Community Evaluation (PACE) committee and asked for two representatives from each association to assist with the purpose of the committee.

Ms. Jane Gianvito Mathews felt there was a good relationship in the community and this is an opportunity for us to come together and get a vision for the area.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Sitnick reaffirmed Ms. Mathews' statements. She said the whole point of a small area plan that brings together staff, citizens, residents and the business people is to avoid the very thing that this Council is constantly dealing with and that's the contentious public hearing that occurs down the line because there really hasn't been this long term opportunity of participation on the part of the people who are impacted by development, growth, zoning, etc. She commended this effort and appreciated Planning and Zoning Commission's recommendation to the Council and the up front vision that will occur in a small area plan, whether it's for Charlotte Street, or anywhere else is the remedy against creating another anywhere USA kind of road like Tunnel Road or Merrimon Avenue. That's the whole point of this kind of process and she's very encouraged by it and hopes other neighborhoods in the City pick up on it and emulate it.

Councilwoman Field moved for the adoption of Resolution No. 94-233. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 143

B. AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO AN AREA KNOWN AS THE OTEEN III ANNEXATION AREA

Mayor Martin said that the public hearing on this matter was held on December 6, 1994.

Ms. Patty Joyce, Senior Planner, brief the Council on the plan for services. She said that the proposed effective date of the annexation would be February 28, 1995.

Fire Chief John Rukavina answered various questions raised by Councilman McClure relative to fire protection at the VA Hospital.

Upon inquiry of Councilwoman Field on the City Manager's position on this annexation, Mr. Westbrook stated his reasons why he supported this annexation.

Mr. Jerry Crow, attorney representing the Summit, stated that the Summit is opposed to this annexation and pointed out his various reasons. It seemed that the City is asking less than 15 residences and the Summit to fund this annexation through the $138,000 the City will be receiving from taxes. From the Summit's viewpoint they will be passing that through to the people who can least afford it and that is the people who are in extended long-term care and most of those are on Medicaid. It was his feeling that the City is going to have a greater expense to provide adequate fire protection to this type facility if in fact they are treating it as just another part of the City. The City's figure of annexation certainly does not include the legal costs if the annexation is challenged in court and he feels that there is an issue in this case on whether the area qualifies or not.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption an ordinance extending the corporate limits of the City of Asheville to an area known as the Oteen III annexation area. This motion was seconded by Mayor Martin.

On a roll call vote of 2-5 vote, the motion extending the corporate limits to an area known as the Oteen III annexation area failed, with Vice-Mayor Peterson, Councilwoman Sitnick and Councilmen McClure, Swicegood and Watts voting "no".

C. CONSIDERATION OF AN APPLICATION FOR A LICENSE FOR A MASSAGE THERAPIST - MARY PRIDE

Mr. Larry Fisher, Finance Director, said that Ms. Mary Pride seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City Code.

City staff has reviewed Ms. Pride's application and all pertinent requirements have been met.

Councilwoman Sitnick felt that it was time for Council to consider asking the City Manager in conjunction with the Police Department to revise our City's massage parlor ordinance in order to exempt massage therapists or at least to include certain education standards in that ordinance.

Councilwoman Sitnick moved to approve the application for a license for Ms. Mary Pride to practice the profession of a massage therapist. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

D. CONSIDERATION OF AN APPLICATION FOR A LICENSE FOR A MASSAGE THERAPIST - LINDA S. BOYD

Mr. Larry Fisher, Finance Director, said that Ms. Linda Boyd seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City Code.

City staff has reviewed Ms. Boyd's application and all pertinent requirements have been met.

Councilwoman Sitnick moved to approve the application for a license for Ms. Linda Boyd to practice the profession of a massage therapist. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At the request of Councilwoman Sitnick, it was the consensus of Council to ask the City Manager in conjunction with the Police Department to revise our City's massage parlor ordinance in order to exempt massage therapists or at least to include certain education standards in that ordinance. Councilwoman Sitnick said that not only is massage therapy becoming an accepted practice in the medical and chiropractic professions but it addresses muscular skeletal diseases, sports medicine and physical therapists. Massage therapy is an accepted therapeutic practice in our society today and it's about time that Asheville's ordinance stepped into the 90's.

E. PRESENTATION BY CHARLIE GLAZENER - COMMUNITY VISIONING

Mr. Charlie Glazener, representing the Asheville Area Chamber of Commerce, gave an extensive presentation to the City Council on community visioning. The total fee for this strategic plan is approximately $30,000 in which the City and County are asked to contribute $12,000 each and the Chamber to contribute $6,000 - with the Chamber providing staffing.

Mayor Martin read the following letter dated December 20, 1994, from Robert E. Shepherd, Executive Director of the Land-of-Sky Regional Council: "I have now discussed the proposed vision for Asheville-Buncombe with you and the Chamber Board Chairman. As you know, we are still implementing our four-county plan, Regional Vision '95. I believe a vision and strategic plan for Asheville-Buncombe could be quite helpful. Our Council has considerable expertise in strategic planning and facilitation and could well assist the County, City, and other municipalities in such an effort if requested. I hope to talk further with the Chamber and other participants to learn further details concerning: - plan/study design; community participation; governmental units to be involved (it is to include other counties?); and etc. We have almost completed a manual on multi-county strategic planning and believe that many of the recommendations in that manual could help with process design involving the collaborators. We look forward to further input if you feel it would help. Please let me know how we can assist you."

Councilwoman Sitnick said she was impressed with Mr. Luke's presentation, his style, his manner and obviously with his results. Not discussing the money for a moment, she expressed a concern regarding duplication of effort. One of the things that she has asked our City Manager to do is to put together for the Council the total amount of money that has been spent on an annual basis on studies and consultant fees, recognizing full well that studies and consultants are necessary. She was concerned with this visioning process duplicating some of the things that have already been done in the City and the County. She was also concerned with the fact, and this is an argument in favor of the Mayor's proposal for four year terms for Council rather than two, that every two years the political climate of the City changes and while this effort might come up with some great demographics and great statistics and suggestions, the City may have a change in climate, politically, that either negates those recommendations or makes different ones. Regarding the money aspect, she expressed a real concern about the fact that the City doesn't even have enough money in their budget to pay for CityWorks - an effort by this Council to provide an opportunity to provide information about our City and provide an opportunity for public participation to 80,000 people for a mere $30-40,000 that we don't have. She would like to do everything, but there isn't any money. She said we have to try to get support from our local legislative delegation to possibly approve a one percent room tax increase when Charleston charges 12%, Asheville charges 3%. A one percent increase we could earmark for infrastructure, like street and sidewalks. We don't have any revenue sources. My concern is not with the idea because she thinks it's wonderful because planning and visioning are important, especially in a community like Asheville, but when it comes to money, $12,000 here, $12,000 there, and you've got a sidewalk on Wellington Street that was badly needed. If we don't have the money for CityWorks and all these other things we need, the thought of giving $1,000 for this effort right now is something she has a real hard time doing. That's nothing personal, because she thinks it's a great idea.

Upon inquiry of Mayor Martin, Audit/Budget Director Bob Wurst said that there was $29,000 left in contingency that Council could appropriate, if they so choose.

Vice-Mayor Peterson stated that taking care of Asheville's streets and sidewalks is a top priority.

Councilman McClure stated that City residents already pays County taxes and perhaps the County should pay a larger share. He questioned if corporations would like to contribute.

It was the consensus of Council to consider the information presented at this meeting and have the matter brought back at the January 10, 1995, meeting.

F. ORDINANCE NO. 2167 - AN ORDINANCE AMENDING THE STORMWATER RUNOFF REGULATIONS RELATIVE TO THE APPEAL PROCESS

City Attorney Slawter said that during the December 6, 1994, City Council meeting, the Council requested that the stormwater ordinance be amended so as to provide for appeals from the City Engineer to go to the City Council, rather than to a Stormwater Plan Review Committee. In addition to hearing appeals, the stormwater ordinance charges the Stormwater Plan Review Committee with the duty of amendment to Stormwater Standards Specifications Manual from time to time. The ordinance currently provides for the City Council to adopt the initial manual and the Committee to approve subsequent amendments. Since there will no longer be a provision for a committee, the amended ordinance also provides for the Council to approve the amendments.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2167. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2167 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 357

G. ORDINANCE NO. 2168 - BUDGET AMENDMENT RELATIVE TO SETTING UP AN APPROPRIATION FOR THE NORTH ASHEVILLE YOUTH LEAGUE

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $2,500, comes from a donation made by First Union National Bank. This contribution is earmarked for the North Asheville Youth League.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2168. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2168 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 358

H. **BUDGET AMENDMENT RELATIVE TO A COMPREHENSIVE PAY AND POSITION COMPENSATION STUDY**

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND DAVID M. GRIFFITH AND ASSOCIATES LTD. TO CONDUCT A COMPREHENSIVE CITY-WIDE PAY AND CLASSIFICATION STUDY

Ms. Pam McGrayne, Personnel Director, said that staff is requesting approval of a budget amendment in the amount of $49,800 to fund a City-wide pay and classification study. Also, staff is requesting that the City Manager be authorized to execute an agreement between the City and David M. Griffith and Associates Ltd. ("DMG") to conduct a comprehensive city-wide pay and classification study.

She said that the City has received eight proposals for conducting a city-wide pay and classification study. Each proposal responded to some or all of the objectives specified in the Request for Proposals. After reviewing proposals and references, staff recommends that the City Manager be authorized to execute an agreement with DMG.

DMG has conducted similar studies and installed various classification and compensation systems in more than 400 cities, counties and public agencies throughout the United States. It also has extensive experience in the installation of pay-for-performance/performance appraisal systems and in developing various salary administration programs and associated policies.

DMG's project approach includes the following components and associated costs:

*Classification Specifications (job audits) - $37,350
Compensation Survey - $1,710
Comp/Class Plan, FLSA Analysis - $13,000
Pay-for-Performance, other administrative policies - $3,860
Staff Training - $2,560
Software System - $5,000

Total $63,480

*As a cost-reducing alternative, staff has negotiated with DMG to conduct sessions to train a committee of City staff members to interview 30% of their fellow workers about their positions. DMG staff would work closely with this committee and meet with it daily. This alternative would save $13,680 for a total project cost of $49,800.

Vice-Mayor Peterson was impressed with the way DMG performs their studies and presents their results.

Ms. McGrayne answered various questions and concerns from the Council as they related to other ways of handling the study, how the study will be implemented, etc.

Upon inquiry of Councilwoman Field about where the City would get the $49,800, Audit/Budget Director Bob Wurst said that each year a $100,000 appropriation is set up in the general capital fund for studies and one-shot type things like this and the money would come out of that fund.

Councilman Watts supported the budget amendment and stated the need for one.

Vice-Mayor Peterson and Councilman Swicegood felt it would be a good idea for the City to ask DMG for a quote on doing a manning study for all departments, similar to the one done in the Water Department a couple of years ago. Councilman Swicegood agreed.

Ms. McGrayne said she would be happy to get that figure and wanted to stress that this study would need to be completed in time to get in on the budget process for this year.

City Manager Westbrook said that he would be looking into the staffing situation for the City during the budget process.

Councilwoman Sitnick commended Ms. McGrayne for finding ways to lower the cost of the study. She echoed Vice-Mayor Peterson's comments concerning the staffing study.

Councilwoman Field said the City definitely needs the study done to get us back in line and commended Ms. McGrayne for negotiating a lower price by training City staff and obtaining the software to keep up with the study. She understands the request for DMG to do a manning study, but she would prefer to let the City Manager do his job and manage it by coming back to Council with recommendations on staffing. She was not opposed to getting a quote from DMG but felt the City needed to go ahead with the pay and classification plan and let the City Manager take a hard look at the way we staff our City.

Councilman McClure stated that he did want everyone to be paid a fair wage. However, the City is going to have to be prepared to either cut expenses or raise taxes to pay for the implementation. He wanted to have additional information on whether the City could cut expenses because he is not prepared to raise taxes.

It was the majority of Council's decision to postpone the budget amendment and the resolution authorizing an agreement with DMG until a quote from DMG on performing a manning study for all departments has been received.

V. CONSENT:

Due to failed motion to extend the corporate limits of the City of Asheville to an area known as the Oteen III annexation area, the following consent agenda items were removed:

- Resolution authorizing the City Manager to execute an amendment to an agreement by and between the City of Asheville and the United States of America for fire protection services to the Veterans Affairs Medical Center

- Resolution authorizing the City Manager to execute an agreement on behalf of the City of Asheville with the Riceville Volunteer Fire Department for fire protection services to the Oteen III annexation area

As a result of the postponement of the budget amendment concerning the pay and classification study, the resolution authorizing the City Manager to enter into an agreement with David M. Griffith and Associates Ltd. to conduct a comprehensive city-wide pay and classification study has been removed from the consent agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 6, 1994

B. **RESOLUTION NO. 94-234 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 141, 149 AND 150 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM**

Summary: C.F.P. Building associates, L.L.C., bid on disposal parcels 141, 149 and 150 in the amount of $55,000. The total area of land is 2.4 acres (approximately one acre buildable). The proposed development will consist of a 5,400 square foot office building for use solely in the practice of family medicine by the redeveloper. The design of both building and parking will be such as to maintain a character in keeping with the surrounding residential area.

RESOLUTION BOOK NO. 22 - PAGE 144

C. **RESOLUTION NO. 94-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR AND TO ENTER INTO AN AGREEMENT WITH THE N.C. MARTIN LUTHER KING JR. COMMISSION FOR A GRANT PROGRAM**

Summary: The Asheville Parks and Recreation Department has requested the City make application for and authorize an agreement with the North Carolina Martin Luther King Jr. Commission for a grant total of $2,400.

RESOLUTION BOOK NO. 22 - PAGE 145

D. **RESOLUTION NO. 94-236 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 24, 1995, DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 431 STATE STREET**

RESOLUTION BOOK NO. 22 - PAGE 146

E. **RESOLUTION NO. 94-237 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JANUARY 24, 1995, DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 56 BURTON STREET**

RESOLUTION BOOK NO. 22 - PAGE 148

F. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO AN AGREEMENT BY AND BETWEEN THE CITY OF ASHEVILLE AND THE UNITED STATES OF AMERICA FOR FIRE PROTECTION SERVICES TO THE VETERANS AFFAIRS MEDICAL CENTER**

This item was deleted from the consent agenda.

G. **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT ON BEHALF OF THE CITY OF ASHEVILLE WITH THE RICEVILLE VOLUNTEER FIRE DEPARTMENT FOR FIRE PROTECTION SERVICES TO THE OTEEN III ANNEXATION AREA**

This item was deleted from the consent agenda.

H. **RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT RELATIVE TO A COMPREHENSIVE PAY AND POSITION CLASSIFICATION STUDY**

This item was deleted from the consent agenda.

I. **RESOLUTION NO. 94-238 - RESOLUTION AMENDING THE PERSONNEL POLICY TO ALLOW FOR CONVERSION OF ANNUAL AND HOLIDAY LEAVE TO SICK LEAVE**

Summary: This resolution will amend the City's Personnel Policy to provide for the conversion of unused holiday leave and accrued annual leave in excess of the designated amount, to sick leave at the end of each calendar year unless otherwise approved by the City Manager. Employees could use converted leave in the same manner as other accrued sick leave during employment and at retirement.

RESOLUTION BOOK NO. 22 - PAGE 150

J. RESOLUTION NO. 94-239 - RESOLUTION REAPPOINTING M. JERRY VEHAUN TO THE FIREMEN'S RELIEF FUND

Summary: The term of M. Jerry VeHaun will expire on January 1, 1995. This resolution will reappoint Mr. VeHaun to an additional two year term. His term will expire January 1, 1997, or until successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 151

K. RESOLUTION NO. 94-240 - RESOLUTION APPOINTING HENRY MITCHELL TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: Harry Baker has resigned from the Tree/Greenway Commission leaving an unexpired term until August 1, 1995. This resolution will appoint Henry Mitchell to fill the unexpired term of Mr. Baker. Mr. Mitchell's term will expire August 1, 1995, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 152

L. RESOLUTION NO. 94-241 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF DIRECTORS OF VICTORIA OF ASHEVILLE INC.

Summary: Victoria of Asheville Inc. is a non-profit corporation incorporated on July 17, 1980. As required in the Articles of Incorporation and the By-Laws, City Council has from time to time appointed members of the Board of Directors of the Corporation. Current appointments expire on November 29, 1994, or until their successors are appointed. The primary responsibility of the Directors is to keep the Corporation intact and viable until the year 2010 when its purpose shall have been served whereupon it can be dissolved. Interim City Manager Bill Farris recommended to Council that, given the nature of the Directors responsibilities, City employees be appointed as Directors. This resolution will appoint Larry A. Fisher, Finance Director, Robert G. Wurst, Audit/Budget Director, and William L. Schaefer Jr., Capital Projects Coordinator, as Directors of the Corporation.

RESOLUTION BOOK NO. 22 - PAGE 153

M. RESOLUTION NO. 94-242 - RESOLUTION APPOINTING ELBERT L. TAYLOR SR. AS A REGULAR MEMBER AND BURT STANFORD JR. AS AN ALTERNATE TO THE BOARD OF ADJUSTMENT

Summary: Kent Newell resigned leaving a vacancy on the Board of Adjustment until January 21, 1996. This resolution will appoint Elbert L. Taylor Sr. to fill that unexpired term until January 21, 1996, or until his successor has been appointed and qualified.

On November 15, 1994, City Council appointed Judy Long as a Regular member on the Board of Adjustment, leaving her Alternate term to

be filled. This resolution will appoint Burt Stanford as an Alternate until January 21, 1997, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 154

N. RESOLUTION NO. 94-243 - RESOLUTION REAPPOINTING E. BENSON SLOSMAN TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Summary: This resolution will reappoint Ben Slosman to the MSD Board for an additional three year term, term to expire January 19, 1998, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 155

O. RESOLUTION NO. 94-244 - RESOLUTION APPOINTING STEPHEN TOOMEY TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: Due to the resignation of Carolyn Ketchum there now exists a vacancy on the Commission. This resolution will appoint Stephen Toomey to the Civic Center Commission to fill the unexpired term of Ms. Ketchum, term to expire June 30, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 156

P. RESOLUTION NO. 94-245 - RESOLUTION APPOINTING BARBARA LOGAN, JIM SAMSEL AND GARRY MOFFITT TO THE ASHEVILLE DOWNTOWN COMMISSION

Summary: The terms of Don Martell, Barry Olen and Victor Trantham expire on December 31, 1994. This resolution will appoint Barbara Logan, Jim Samsel and Garry Moffitt to the Asheville Downtown Commission to serve two year terms respectively, terms to expire December 31, 1996, or until their successors are appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 157

Q. RESOLUTION NO. 94-246 - RESOLUTION APPOINTING DORIS HILL BREWER TO THE BOARD OF DIRECTORS OF THE OPPORTUNITY CORPORATION OF MADISON-BUNCOMBE COUNTIES

Summary: The By-Laws of the Corporation provide for the City Council to appoint one representative to the Board of Directors of the Corporation for a three year term. The City Council previously stated its intent to appoint Doris Hill Brewer to the Board of Directors of the Corporation.

RESOLUTION BOOK NO. 22 - PAGE 158

R. MOTION SETTING A PUBLIC HEARING ON JANUARY 10, 1995, REGARDING AMENDMENT TO THE ZONING ORDINANCE RELATIVE TO PARKING LOT SURFACE REQUIREMENTS

S. MOTION SETTING A PUBLIC HEARING ON JANUARY 24, 1995, AT 7:00 P.M. IN THE COUNCIL CHAMBER - 2ND FLOOR - CITY HALL BUILDING - RELATIVE TO AN ELECTED SCHOOL BOARD

T. RESOLUTION NO. 94-247 - RESOLUTION APPOINTING NICK KOON TO THE ASHEVILLE TRANSIT AUTHORITY

Summary: The term of Larry Linney will expire on December 31, 1994. This resolution will appoint Nick Koon to the Asheville Transit Authority to serve a four year term, term to expire December 31, 1998, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 159

Councilman McClure moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Carl Ownbey, Transportation Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on December 7, 1994:

EMMA ELEMENTARY SCHOOL ADDITION

Mr. Ownbey said that this project is for the proposed addition to the Emma Elementary School on N. Louisiana Avenue. The project will replace several old structures with a two-story facility with some administrative offices and larger classrooms.

The Planning staff and the Planning and Zoning Commission recommend approval of the addition to Emma Elementary School with the following conditions: (1) that the driveway onto Brickyard Road be moved 80 feet to the north to allow for the placement of adequate buffering; (2) receipt of the letter approving water availability; (3) receipt of the letter approving sewer availability; (4) receipt of the letter outlining adequate water flow for fire protection; (5) receipt of a driveway permit on Brickyard Road; and (6) buffering be provided in accordance with City ordinances at the corner of the parking lot. Mr. Ownbey said that the developer has already complied with items (1) and (6).

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

WEST TERRACE CENTER - PHASE III

Mr. Ownbey said that this project is for the proposed expansion of the West Terrace Center complex on Patton Avenue and Haywood Road. Phase III of the project is located at the corner of Haywood Road and Parkwood Road (which is a city street through the project).

The Planning staff and the Planning and Zoning Commission recommended approval of the expansion to the West Terrace Center with the following conditions: (1) receipt of the letter approving water availability; (2) receipt of the letter outlining adequate water flow for fire protection; and (3) receipt of a driveway permit on Parkwood Road.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. APPRAISAL OF CITY OWNED PROPERTY

Councilman Swicegood asked the City Manager to provide Council with an appraisal on the building in which City Development is housed and the costs associated with the renovation of that building.

C. DRUNK DRIVING LAWS

Councilwoman Sitnick asked Council's feeling on including in our request to the legislative delegation the State's drunk driving laws and the level of judicial back up for those laws and sentencing requirements.

Councilman McClure felt that perhaps a resolution for stricter enforcement might be in order.

D. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of December 1-7, 1994: Vernon L. Grimsley (Fire), Kim Rogers (Water), John O'Donnell (Water), Marvin Johnson (Parks and Recreation), Harry Burnette (Water), Maxine Cleveland (Water), Ruth Ballard (Streets), Dan C. Schmidt (Water), Robin Kastler (Water), John A. Harrin (Water) and Hampton Inn (Water).

He said the following claims were received during the week of December 8-14, 1994: Esther Marcus (Streets), Janice Padgett (Water), Jack Smith (Parking), Southern Bell (Water) and Robert Morgan (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

E. CLOSED SESSION

At 7:52 p.m. Vice-Mayor Peterson moved to go into closed session to discuss the purchase of real property. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:10 p.m.

William D. Wheatley
CITY CLERK

MAYOR

Tuesday - January 10, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Deputy City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-1 - RESOLUTION AUTHORIZING PRESENTATION OF FIRE ALARM BOX IN MEMORY OF SPURGEON SLUDER

Fire Chief John Rukavina said that the Fire Department is seeking authority through resolution to present a fire alarm box to the descendants of Spurgeon Sluder, an employee of the Fire Department from 1923 to 1959.

Asheville's first public fire alarm system was installed in the 1890's, but much of the system was installed by Mr. Spurgeon during his lengthy career as Asheville's fire alarm superintendent from 1923 to his retirement in 1959.

Mr. Harry Adams, a retired City of Asheville firefighter and safety officer, and Spurgeon Sluder's grandson - is seeking to create a memorial to Mr. Sluder, which would include a fire alarm box.

Because Mr. Adams was unable to attend the meeting, Fire Chief Rukavina was asked to deliver the fire alarm box to him.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-1. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 1

B. RECOGNITION OF CITY'S 1994 UNITED WAY CAMPAIGN

City Manager Westbrook recognized Kintzley "Junior" Carter, Fire Inspector, and Frank Dover, Fleet Management Shop Supervisor, who were co-coordinators of the City's 1995 United Way Campaign. This campaign resulted in the City employees pledging $59,237.60. He felt that the United Way Campaign for 1994 was a success and thanked all the employees.

United Way Executive Director George Phiffer also thanked City employees for their generous gifts to the community.

C. PROCLAMATION PROCLAIMING JANUARY 10-17, 1995, AS "DR. MARTIN LUTHER KING JR. WEEK"

Mayor Martin proclaimed the week of January 10-17, 1995, as "Dr. Martin Luther King Jr. Week" in the City of Asheville and presented the

proclamation to Ms. Willa Mae Grant and Ms. Oralene Simmons, who briefed the Council on the activities that would be taking place during this week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE RELATIVE TO PARKING LOT SURFACE REQUIREMENTS

ORDINANCE NO. 2169 - ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING PARKING LOT SURFACING

Mayor Martin opened the public hearing at 4:30 p.m.

Deputy City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that upon the direction of City Council, the Planning Department has prepared an amendment to the zoning ordinance in order to provide more flexibility in the types of parking lot surface materials that can be used for new parking lots. The current ordinance requires that almost all parking lots be paved with asphalt. The amendment will allow almost any type of surfacing material, but establishes minimum standards to ensure public safety.

Upon inquiry of Councilman Swicegood about rains washing the gravel into the street and neighboring properties, Mr. Nicholson said that the ordinance has a provision in it that basically prevents that from happening, however, if it does happen, it would be a violation of the zoning ordinance and enforcement would be through the zoning enforcement staff.

Councilwoman Sitnick said that Councilman Swicegood's point was addressed very professionally by staff. She said this amendment is just one small step in this Council's commitment to cutting back on stormwater runoff. This allows businesses and developers more flexibility in their choice of materials. They can still pave because this is not a requirement - it's just more flexibility in the law.

Ms. Fran Meyer, owner of a commercial building on Clayton Street, was in the process of restoring the building and felt that if she paved her parking lot she would have extensive flooding.

Ms. Elizabeth Graham, Chairman of the Planning and Zoning Commission, said that this ordinance would offer developers some alternatives. She said the only major of concern of the Commission was that of maintenance and appearance.

Councilwoman Sitnick said that this ordinance does not talk specifically about gravel - there are new materials coming on the market that a builder or developer can choose to use. The ordinance also has a provision for handicapped accessibility.

Mayor Martin closed the public hearing at 4:39 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2169. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, Ordinance No. 2169 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 360

III. UNFINISHED BUSINESS:

A. COMMUNITY VISIONING PROPOSAL

Mr. Charlie Glazener, representative of the Chamber of Commerce, gave Council an overview of the proposal which bottom line is to make Asheville the best small metropolitan community in America. He reviewed the breakdown of exponses which totaled $33,000 - Buncombe County Commissioners $14,820; City of Asheville $9,090 and Chamber of Commerce $9,090.

Mr. Glazener answered various questions from Council ranging from the steering committee make-up to the amount Mr. Luke charges as a facilitator.

Councilwoman Sitnick did not question Mr. Luke's worth as she was not familiar with what the average costs are for facilitators for these kinds of meetings and these might be absolutely appropriate. However, she personally felt that she could not spend $9,090 of the City's money for this kind of thing. She understood that this is a professional process, but City staff and Council members conducted the EZ/EC study recently which turned people out all over the City.

Upon inquiry of Mayor Martin, City Manager Westbrook said that the $9,090 is available in either fund balance or contingency.

Councilwoman Sitnick felt the money would be better spent in helping fund CityWorks page to inform our citizens about what goes on in the City every day.

Mayor Martin said a visioning process is very important for Asheville. It is a process that can include a lot of different people in our community who are not heard. He felt Asheville should move forward with this in order to keep focused on our long-term goals. He realized that we are in a short-term budget crunch but the money is available for a item such as this and he felt it would be money well spent.

Mayor Martin said that members of Council have previously received a copy of the proposed budget ordinance in the amount of $9,090 and it would not be read.

Councilwoman Field moved for the adoption of the proposed ordinance. This motion was seconded by Mayor Martin.

On a roll call vote of 3-4, the motion failed with Vice-Mayor Peterson, Councilman McClure, Councilwoman Sitnick and Councilman Swicegood voting "no".

Councilwoman Sitnick stated that if there is $9,090 in the contingency fund that we apply that and reserve it until such time that we have additional monies to put to it in order to resume CityWorks in the Citizen-Times newspaper. She asked the City Manager to be prepared to discuss this matter at the upcoming Council retreat.

Mr. H. K. Edgerton asked that the African "merican newspaper and the Asheville Advocate be included in any negotiations regarding CityWorks .

IV. NEW BUSINESS:

A. RESOLUTION DIRECTING THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION TO PURSUE THE POSSIBILITY OF DESIGNATION OF EAGLE-MARKET STREETS AS A LOCAL HISTORIC DISTRICT

Ms. Maggie O'Connor, Historic Resources Commission Director, said that the Historic Resources Commission ("HRC") has been approached concerning the creation of a local historic district for the Eagle/Market Street area. The establishment of a historic district was one of the objectives set forth in the South Pack Square Redevelopment Plan. The first step would be for staff to contact the property owners in the area to see if they in fact want the area to be an historic district. If Council wishes, HRC is more than willing to proceed with the research, nomination report, public input, and owner consent.

Vice-Mayor Peterson stated that the problem in the Eagle/Market Street area is trying to get minority businesses opened and minority jobs in that area. He wondered if it would be difficult for minorities to get buildings approved if it were designated as a local historic area. From what he has heard, he wasn't sure if the area residents were in favor of the designation.

Ms. O'Connor said that if the property owners don't want the area designated, the matter would be dropped. She responded to some of the concerns Vice-Mayor Peterson expressed regarding minority businesses in the area.

Councilwoman Sitnick wanted to make sure that the property owners in the area were interested in the designation. She questioned if it would benefit them, whether it would cost more, whether they would get a tax credit or whether it would hinder development. She said that since there's a little bit of uncertainty now regarding South Pack Square if Council should wait to do anything on this until all of those other matters are cleared up.

Ms. O'Connor tried to respond to Councilwoman Sitnick's concerns by stating that, to her knowledge, there has not been a historic district in the United States that the values in the properties have gone down - they have always stabilized and gone up. As far as tax credits, that happens if you are a national register district. Nine of those buildings are eligible for tax credits and some of them are not, like to GOOMBAY building because it is not a contributing structure.

Councilman Watts felt strongly that Dr. John Grant from the Mt. Zion Missionary Baptist Church and property owners in the area need to be educated as to what the historic district designation means.

Mr. Ralph Bishop felt that the property owners in the area had already stated that they did not want the historic district designation.

Dr. John Grant spoke about an incident where Mt. Zion Missionary Baptist Church had applied for a grant and had been turned down. He also asked for some type of educational meeting. As far as some of the concerns about the South Pack Square area, he said that the Eagle/Market Street area is a blighted area and hoped Council would not punish them for something they did not have any responsibility for.

Ms. O'Connor explained the circumstances surrounding the incident of the Church's grant being turned down.

Mr. H. K. Edgerton had serious reservations about this historic designation. For starters, he felt the complexion of the Eagle/Market Street area has changed drastically from the historic area it was. He also felt that if you exempt the GOOMBAY building, you basically wipe out the remaining black businesses in that particular area. He felt there needed to be a lot of communication with the neighborhood, not just the business owners.

Vice-Mayor Peterson moved to have Ms. O'Connor arrange a meeting with Dr. John Grant, property owners, and the surrounding neighborhood in the area to inform them of the specifics of being a local historic district. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Sitnick asked that the meeting be advertised as widely as possible, such as flyers on the doors, ads in all of the newspapers, etc.

B. CITYWORKS

Councilwoman Sitnick moved to instruct the City Manager to have information available at the upcoming Council retreat on CityWorks, such as the cost of CityWorks in the past in the Citizen-Times and what it might cost us to have an agenda and some points of public notice placed in the Mountain Xpress, the Asheville Advocate and the African American. This motion was seconded by Councilwoman Field and carried on a 5-2 vote, with Councilmen McClure and Swicegood voting "no".

C. BUDGET AMENDMENT TO CLOSE OUT STREET AND SIDEWALK PROJECT NO. 5

Audit/Budget Director Bob Wurst said that the City of Asheville agreed to provide the Housing Authority with $126,000 from the Street and Sidewalk fund for additional infrastructure improvements in the Montford community. This budget amendment, in the amount of $126,000, follows that agreement and allows us to close out that payment.

Mr. H. K. Edgerton said that he has a lien in the amount of $126,000 on that project and felt that his lien should be satisfied before the project was closed out.

Mayor Martin instructed the City Attorney to investigate Mr. Edgerton's claim of lien and report back to the Council at its next meeting.

D. MOTION RELATIVE TO CITY COUNCIL NOT AUTHORIZING OR APPROVING THE FUNDING OF ANY INTERNAL OR EXTERNAL STUDIES, CONSULTING CONTRACTS, OR THE FUNDING OF ANY AGENCIES UNTIL THE CITY COUNCIL HAS BEEN PROVIDED WITH A COMPLETE LIST AND TOTAL OF FUNDS PAID OR APPROVED

Councilman McClure said that if you review today's agenda, you will see $187,000 in consulting fees. This does not include $30,000 relative to Pritchard Park or the $23,900 for the parking studies, totaling $240,900 just today on consulting fees. As a result of that, Councilman McClure moved that the City Council not authorize or approve the funding of any internal or external studies, consulting contracts, or the funding of any agencies until the City Council has been provided

with a complete list and total of funds paid or approved. This is to include all contracts regardless of the amount. Also the City Council will be provided with a resource list of alternatives to the use of consultants such as the Blue Ribbon Committee or existing staff. This motion was seconded by Councilman Watts.

Mayor Martin stated that he had no problem with the request and hoped that all the provisions would already be in place. The only thing he would change would be removing the up to $25,000 threshold that the City Manager is authorized to sign without bringing the matter formally to the City Council. He felt that the motion, as is, would make government a little more cumbersome and perhaps even hamper government. He felt if we didn't have the expertise in-house, we would need to hire a consultant.

Councilman McClure said that even the contracts less than $25,000 add up very quickly, citing the $9,090 for the community visioning proposal and the 23,900 for the parking study. He felt Council needed to look at all these contracts to see exactly what we are paying for.

Since this motion would mean that the comprehensive pay and position study would be on hold, Councilwoman Field could not support the motion.

Councilwoman Sitnick said that she has been appalled at the numbers, some of which were just cited by Councilman McClure, that we have spent on study and consultant fees. She was not saying that we shouldn't spend money on studies and consultant fees, because she thought that they are part of knowing what you're doing in government. But, some of the numbers are outrageous. She felt that if we were to put all of that money together and stick it under somebody's mattress, we would have quite a reserve of monies that we could spend on things - turning the shovel of dirt and funding programs, like substations. She felt Council needed to have a complete list of what the City spends, department by department, on studies and consultant fees so that we have an idea of whether we're spending our money wisely or not. That was one of our commitments to the public of this City and if we don't know what we're spending then there is no way we can cut it or be accountable for it and if we're not accountable for it, we don't have any right to spend it.
She looked at one of the consultant fees on the agenda for $75,000 for a consultant to look into the cable franchise and felt it's just a lot of money. She felt that while we need studies and while we need consultants to do certain things, our government is hampered because we have no money. And if it takes a little discussion, a little extra dialog, a little extra understanding, and a little more paperwork, she thought that in the long-run our government will actually be served better because we will have more money that hasn't been spent on consultant fees to do the work that we need to do. The other thing is that we make everything very complex in government and sometimes we create complexities that hamper government just as much.

At the request of City Manager Westbrook, Councilman McClure clarified his motion by saying that Council wants an accountability of what we have funded right now. If we have a contractual obligation then we will honor that obligation But, Council wants to know what we have paid for and what we have gotten for that money. At the same token, if we have some items pending, we want to stop those until we know exactly what we have and what we're paying for.

Councilman McClure said that if we have a committee set up, like the Blue Ribbon Committee, to study efficiency in government, then why would we need the consultant to study City staff to see if any efficiency or inefficiencies exist. He felt the City Manager should be given the opportunity to look at matters like that before going outside. City Manager Westbrook said that he plans on doing that as part of the budget process which we have already started.

Councilman McClure said that the list to Council should contain the following information for the current fiscal year: the amount, who the consultant was, what it was for and whether the study information was implemented.

Councilwoman Field suggested the following information also be included in the list: that it be broken down by department by department, if it was a competitive bid, was it mandated by the State, if the consultant fee was a significant amount (because she didn't think we needed to look at every consultant fee) and what do other cities pay for comparable work. She felt that this information will give us some idea of how much we have privatized in the City.

Councilwoman Sitnick felt all the points are important but her original request for totals should not be held up until such a time that the Manager is able to get that information since it is a lot. She requested that she get those totals, department by department, prior to the Manager being able to finish all the other work. She also recommended that we get a UNC-A intern to go to her house and go through a box of her agendas. Just by looking at the agenda, they can do a basic study for the last year since we have been in office as to how many consultant fees and study dollars we have approved. She felt it would be a real simple way and we don't need a consultant to do this.

City Manager Westbrook read a definition of consultant that the City has used and it was the consensus of Council that the definition was sufficient.

When Councilwoman Sitnick asked the definition of "any agencies", Councilman McClure said agencies like the Chamber of Commerce, the Art Alliance, and basically anyone exterior to City government. He felt some might be reading more into this than he intended - he felt Council needs an accountability of what is going on, what we pay for and what we are going to be paying for.

Councilwoman Field said that she would vote against the motion, not because she doesn't agree with it, but Council has several things in process. At the last meeting, Vice-Mayor Peterson made a motion that we have the Personnel Department get more figures for a manning study - they did a lot of work on it and they are back with us today. A few months ago we directed the staff to get us a fee on renegotiating the cablevision franchise agreement. She didn't think that things that are already in process should be held up and felt Council is sending the staff mixed messages. Council voted on something last week and now we are now changing our minds. She doesn't have any problem with saying that as of a specific date this occurs, but Council needs to go forward with what we have already in process.

Mayor Martin agreed with Councilwoman Field. He had no problem with the overall concept, however, he felt the City Manager should continue to be authorized to sign contracts up to $25,000 threshold.

Councilman Swicegood supported Councilman McClure's motion saying that Councilwoman Sitnick has been asking for this information even before City Manager Westbrook was hired. He felt this is more of an accountability issue.

Vice-Mayor Peterson agreed with Councilman Swicegood stating that $25,000 is a lot of money and adds up quickly.

Councilman Watts felt the City needed to make a decision on the pay and classification study.

At this time, the motion carried on a 5-2 vote with Mayor Martin and Councilwoman Field voting "no".

E. BUDGET AMENDMENT RELATIVE TO A COMPREHENSIVE PAY AND POSITION STUDY

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DAVID M. GRIFFITH AND ASSOCIATES LTD. TO CONDUCT A COMPREHENSIVE CITY-WIDE PAY AND POSITION CLASSIFICATION STUDY

These matters were not introduced due to adoption of motion in Item "D".

F. BUDGET AMENDMENT RELATIVE TO CONSULTING SERVICES ASSOCIATED WITH THE RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH RICE, WILLIAMS ASSOCIATES FOR CONSULTING SERVICES TO THE CITY OF ASHEVILLE IN THE RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

These matters were not introduced due to adoption of motion in Item "D".

G. OPPORTUNITY CORPORATION OF MADISON AND BUNCOMBE COUNTIES

Vice-Mayor Peterson moved to suspend the Rules in order to reconsider the budget ordinance amendment adopted on December 6, 1994, providing for funding to the Opportunity Corporation of Madison-Buncombe Counties.

Vice-Mayor Peterson then moved that the action taken on December 6, 1994, amending the budget to provide $7,835 funding to the Opportunity Corporation of Madison-Buncombe Counties be suspended and the City Manager be directed not to sign any further agreements with or provide any further funding to the Opportunity Corporation of Madison-Buncombe Counties until directed by the City Council to do so.

Vice-Mayor Peterson - Just to go into a few more item, I just wanted to say that as a Council person, being here three years I have never seen such a cover-up, botched up, job in my life. To have a board, I've never been told the board existed, we've never been given any budgets from this board. We supposedly had a person that we put on this board, but he's been on there since 1972. Nobody ever told us that. It's funny that even our City Attorney didn't even know this. So what I'm saying is, this whole deal stinks and I think this should be, should warrant, an investigation. I mean a full investigation of all

books all money involved. I'm talking about two and one-half million dollars, taxpayers money. It bothers me that Channel 13 reports that they talked to two members that are on this so-called board who didn't even know that Dee Williams was the administrator. Now you tell me that isn't fishy. All this boils down to is, this is money and accountability and that two and one-half million dollars I take very seriously. It especially bothers me when elected officials would rather wish this go away than face the facts. This is not about politics, this is about money, misuse of money and like I said, I demand a full investigation and as far as I'm concerned, I think - I have a list here of present board members and I couldn't - it's funny, they didn't even know who the board members were - the Opportunity Corporation didn't even know who they were. I've got a list here - got one member in 1975 that was put on there, another member in 1976, another member in 1982, of course our member was on there for 22 years and that's about all I've gotten. I've called attorneys, I've tried to get minutes of a meeting that I think was totally illegal where Dee Williams was fired. I called up certain members, I got the brush-off, they referred me to an attorney who says he's really not their attorney. So, what I'm saying is the credibility here stinks. And that's all I've got to say.

Mayor Martin - I've got something to say, although if that was in the form of a motion, I need to get that on the floor.

Peterson - It was in the form of a motion. We'll do the first motion first? I guess we have to vote on that. I don't need to read it again, do I?

City Attorney Slawter - No sir, the first vote will be on the motion to suspend the Rules.

Mayor - Okay. Then I would like to have a comment at that time. Did I hear a second?

Councilman Swicegood - Second.

Mayor - Okay, I hear a second. All those in favor say aye. All opposed? (Motion carried on a 6-1 vote with Mayor Martin voting "no")

Peterson - That must pass by two-thirds vote, right? So that passed.

Swicegood - We have another motion on an investigation.

Mayor - Before we do that, I would like to make a comment. I think this is strange, but I do think this is an internal problem that the Opportunity Corporation has to deal with. This is a County sponsored program. We have one City appointment - one, and that is the Mayor or his designee, representative. That could be construed as two City appointments by the By-Laws, it's rather nebulous. As I stated last week, I think before we make any decisions, we need to amass all the information that we can to make a sound opinion and decision. To that end, what I did was to ask the City Attorney and staff to get a copy of the By-Laws and a copy of the audit which was done in November of 1994. I would note that it is a clean audit and that things have been gone over by Johnson, Price and Sprinkle as a normal part of their independent auditors report in compliance with the laws, regulations, contracts and grants based on an audit of financial statements performed in accordance with government auditing standards. Each Council member has a copy of that. We have in the past, this board -

Peterson - I have not gotten a copy of any of that Mayor.

Slawter - A copy of that was put in all the baskets out here, but I'll get you another copy.

Mayor - I wanted to be sure everybody got a copy.

Slawter - I apologize if you didn't get a copy.

Mayor - The board at the Opportunity Corporation consists of 24 to a maximum of 51 people. We in the City have appropriated a total of $10,000 over the last year. We don't have a long record of contributions to the Opportunity Corporation. Two thousand, one hundred and sixty-five dollars of that $10,000 appropriation last year was expended. They did not expend all of it I understand because they didn't have sufficient opportunity during the year to undergo the weatherization project that this $10,000 was specifically directed toward. I don't want a cloud to be hanging over a corporation like Opportunity Corporation that does attract $2.5 million per year to our community. I don't think that they should operate under that cloud. I do feel that, after reading the By-Laws, that they have every right to hire and to fire whomever they wish, regardless of whether we like it or not - they are an independent organization. And they apparently have acted under those guidelines. Therefore, I would recommend that we do have an independent committee - and we would ask Dr. Rainey, Chairman of the County Commissioners, to follow along with us and ask for this independent committee - that would be composed of a representative of the City and of the County, have a representative of the Opportunity Corporation there and anyone else that we would like to participate from the Council and the Board of Commissioners. And that we hold any further disbursements at this point - all City funds - until we are assured that we have confirmation of a clean audit. I do not think that we should castigate a lot of good people and their intentions, nor their efforts while imputing their motives whether it's for political anything or political grandstanding or anything - this should not be bandied about as a political pitfall - but treated as an internal affair. Therefore, I would suggest that I, as Mayor, write a letter to Dr. Rainey, Chairman of the Board of Commissioners, requesting a committee composed of someone from the County, someone from the City, whether one or two people from each body I don't care, and a representative of the Opportunity Corporation to hold a private hearing so that we can get to the bottom of this. This is about as far as I want to go at this stage.

Councilwoman Sitnick - I think an independent committee is good, I would, however, caution that if there are several representatives of the Opportunity Corporation, that we be sure to make sure that they represent both sides. It's my understanding that a number of the votes that had been taken were very divided and maybe only one by one vote - so there wasn't a clear mandate from the Corporation. I would also -

Mayor - Talking about that, I understand that the reason you were not given information is because this was done in executive committee behind closed doors because it's a personnel matter.

Peterson - That's what I was told. I was referred to an attorney that supposed to be representing this group that says he really doesn't represent them, so, to be honest with you Mayor - I haven't figured this thing out and I'm glad you have, but I haven't. I have a lot of open questions. I would be very, I would be against a group that was put together that had members of this Opportunity Corporation - how can you evaluate the situation if you're using people internally - I would vote for somebody totally external group of three or four.

Sitnick - Totally independent.

Peterson - Totally independent, but not an internal group.

Sitnick - I wasn't finished with my comments, but I would like to do that. I would like to request that this Council meet with our City employee - the person who has been in place for all these years, not the person - not Ms. Brewer who was just appointed - but rather Mr. Manley, in order for us to ask some of these questions that the Vice-Mayor refers to. I would also like to see if Dee Williams would be willing to come in and talk with us so that we could ask her some questions. Quite frankly I have many more questions than I have answers as I believe you do. Since this all came to light I can tell you I have gotten one anonymous letter, four letters signed, I got three anonymous phone calls and eight identified phone calls from people in the community. Some who I knew, some who I didn't know - obviously I didn't know who the anonymous folks are. The anonymous phone calls were all left on my answering machine, by the way. In view of those letters and phone calls I would say we have some real digging to do here and I would like to bring in the people I mentioned. Since this is federal money, I don't know what the rules and regs on that are, but perhaps if we really want to get down and independent, we might want to call in, I mean the federal people might want to call themselves in. I don't know how that works exactly, maybe Mr. Slawter can better guide us in that. But maybe we need to have that kind of an examination go on. Quite frankly I know Dee, I know a couple of people on the board and as a member of City Council it's our job to put ourselves outside of what any one person is saying, but really to listen to what everybody is saying. And quite frankly from what I've listened, there are a lot of red flags that have been raised and I think that it behooves us to try and understand what the point of all of this is. I tried to ask myself, in what way did Dee Williams benefit from asking, from bringing up this information. And I don't have an answer for that. If anything I would think there would be a negative impact on her. Again, I'm not saying that we should just believe everything she is saying or all of these calls, or the letter-writers or the members of the board - certainly we can look at minutes and By-Laws and believe them but we need to bring in a group of people who can give us the answers that we need to ask. So I would recommend, in addition to any totally independent committees that are formed and all of these people that you mentioned can certainly be brought in if you will as witnesses, but I would also like to recommend that City Council, for the accountability factor that Vice-Mayor brought up and for the fact that whether it's local money, state money or federal money - it's all the taxpayers money and it's our job to look after it. I would like to ask questions and get some answers before we make any judgments.

Mayor - That's my point.

Swicegood - Seeing that Mr. Burton is here today, do you mind coming and answering some of my questions at the podium?

Lonnie Burton - (stayed seated) I wouldn't mind.

I would like to make myself available - I worked under Dee at the Opportunity Corporation for 30 days in a temporary ... never knowing her before. And I have a lot of information that you all could use.

Sitnick - What is your name?

My name is Chris Wren.

Swicegood - I had about six or seven questions for Mr. Burton and I don't understand why he won't come to the podium and answer my questions. I would like to see that Attorney General, or what would be the appropriate steps, Mr. Slawter, to get an investigation by some state or federal authorities to find out these allegations that have been made. I think this is bigger than City Council. I think it's bigger than an independent group that would be hand-picked by Asheville City Council, or Gene Rainey, or the County Commissioners. And Mr. Mayor, as a leader of our City, with allegations of monies and vehicles, I can't believe that you would not want an investigation as well and that's what I'm asking. Who would be the appropriate person, or people to go to, to get an investigation done.

Slawter - It would depend upon the exact type of investigation Council is wanting to pursue. This agency is a non-profit corporation that is established for the purpose of accepting federal grants primarily, for expenditure for low income people in the two county area - Madison and Buncombe Counties. And the City's involvement has been to appoint one of a large number of members of their Board of Directors and to provide apparently a very small amount of money during the course of years. The only information we were able to find of any expenditures the City was making, at least for the past ten years, has been the $10,000 that was appropriated last year for the weatherization program and a little over $2,000 of that was actually spent. In connection with that appropriation, the City entered into a contract with the Opportunity Corporation as we do with outside agencies for any such expenditures and those contracts authorize us to demand accountings and audits for expenditures of our City monies, but the figures I've heard tossed about are in the millions of dollars, not in the area of $10,000. And to the extent that there should be an investigation into the full scope of the Opportunity Corporation, the City Council, or the City Council in conjunction with the County Commissioners, or if that were going to be done, probably you would want to bring in the Madison County Commissioners as well, because they are an essential part of the Board as well. Those bodies could ask for all types of information that would help answer any questions that Council might have and I would think that the Opportunity Corporation would want to provide that information to these three governmental bodies in order to resolve those questions. If they chose not to, Council could ask others to be involved and if Council wanted to ask others to be involved at this point, as you're asking Councilman Swicegood, if you want me to suggest someone else that I would suggest to be involved, I couldn't think of anybody to suggest other than the Attorney General's Office.

Mayor - Mr. Slawter, since this is a County sponsored organization, shouldn't the County be the one to call for an investigation if they wish.

Slawter - The County has put more money into the matter than the City has, but it's not totally a County sponsored corporation. It's a non-profit corporation set up under the guidelines of federal regulations for the purpose of receiving these federal grants and it has both public appointees as board members, on its Board of Directors, and private appointees - and the public appointees are by the City of Asheville, Buncombe County and Madison County. All three. All three of those governmental bodies have involvement and it would be up to Council whether Council wanted to seek an investigation or work with the County or with Madison County on doing an investigation, or ask that they be the ones to do an investigation. But, it would be as appropriate, I would think, for the City of Asheville to do it as would Buncombe County.

Mayor - I want to address your remark of a second ago. As Mayor of this City, I think it is imperative that we as a Council ask in a responsible manner. And if there is adequate cause to call for a greater investigation, I think we should do that. But in the process of doing that we need to obtain adequate information and that would be done by an independent committee. That's not what you're talking about - not what you alleged a minute ago.

Swicegood - I guess to belabor on that point a little here - I've got the minutes of the Board meeting and just to briefly go over and I've got a copy for all Council members. It says I am asking for this vehicle to be donated to me in lasting memory of the Opportunity Corporation. This is one question I was wanting to ask Mr. Burton. He was asked and he doesn't care to come and ask about this. Now I would like to pass out the minutes of the meeting before he retired.

Mayor - Mr. Burton do you want to respond to any of these questions?

Burton - (seated in audience) ... but I'm sure the Board would be willing to meet with the groups or bodies ...

Peterson - So you're denying the fact that we have these minutes and you asked for the car and you received the car and it was given - made a motion by Ms. Mary Robertson made a motion to approve all requests made by Mr. Burton and it was seconded by Minnie Jones and it was a vote 8-2, motion passed. You're denying that you asked for it?

Burton - (seated in audience) I'm not denying anything. I said that I work for the pleasure of the board ...

Mayor - Mr. Burton would you come to the podium to address these remarks please. And say what you said. These are all recorded and we can't record -

Burton - The Interim Director works at the pleasure of the Board. I'm the interim Executive Director. I think what Mr. Peterson was reading, I'm not sure - I couldn't hear.

Peterson - I'll give you a copy here. Mr. Burton it's a meeting of the Board of Directors, August 31, 1994.

Burton - I was about to say at that time I was at the Opportunity Corporation. However, at the same time I have not been given permission. I'm here today as a concerned citizen. I was called back because of some allegations made by the former Executive Director. And I'm here, I've been on duty now for two days and I'll be glad to report to my Board Chairperson and the Board what you are speaking in terms of today. And they will make that decision as to who, what questions will be answered from the Corporation. I was told we welcome an investigation. We have no problem with that. ... I've heard and I've read in the papers. But no one as far as I know has asked for a total investigation. I approached the proper people, I don't know. I'm not in a position to report to either of you here today.

Mayor - I will at this point make a motion myself that we, on Council, confer with the Commissioner, the County Commissioner, and request that we do have an independent committee. and we can talk about how many members that this committee will be composed of, with the express purpose of looking at the books and any other pertinent information regarding the Opportunity Corporation.

Burton - I was told today the Opportunity Corporation welcomes any investigation of any of the books that we have by the City Council or by the County. We would welcome that.

Peterson - Why have your Board members been hiding? Why do they -

Burton - I'm sorry I can't answer.

Peterson - ... Dee Williams, the attorney, the President, where are?

Burton - I'm sure those questions can be answered.

Peterson - Well I hope they will be because there's going to be a lot of people that want to know the answers to those and we are holding this group accountable for this.

Burton - As I mentioned before, we will be happy.

Peterson - But again you deny you did not ask for this car. You did not receive it.

Burton - As I said, I'm not at liberty to discuss anything.

Mayor - One thing I left out of the motion is that any further funds that have been allocated to the Opportunity Corporation at this time be held pending confirmation of a clean audit and to the satisfaction of this Council.

Peterson - Well, I've already got a motion on there Mr. Mayor and I've got a second to my motion, so I think that ours should go in order.

Mayor - I didn't hear a second motion. How can you do two motions at once.

Peterson - My first motion was to suspend the rules in order to reconsider the budget ordinance. That's why.

Mayor - Is that correct?

Slawter - Yes, sir. The document I had prepared included two separate motions and I believe Vice-Mayor Peterson read both of them and then we vote on part of that to suspend the rules and then it would be appropriate to have the second matter.

Mayor - I stand corrected. Excuse me.

Peterson - And I have the second motion right here that I will be glad to read. And that motion is that the action taken on December 6, 1994, amending the budget to provide $7,835 funding to the Opportunity Corporation of Madison-Buncombe Counties be suspended and the City Manager be directed not to sign any further agreements with or provide any further funding to the Opportunity Corporation of Madison-Buncombe Counties until directed by the City Council to do so.

Mayor - That's essentially the same thing I said and I'll certainly support that.

Peterson - The motion is on the table.

Mayor - Do we need a second on that one as well.

Swicegood - Second.

Mayor - Any further discussion regarding this.

Swicegood - I'd like to make a motion.

Mayor - Hold on, we have this motion. All in favor of this motion that was just read say aye. All opposed? (motion passed unanimously).

Swicegood - I'd also like to make a motion of getting in contact with the Attorney General's Office and see if we can't get some sort of investigation into the Opportunity Corporation.

Mayor - Do I hear a second?

Peterson - I'll second that.

Mayor - Okay, we have a second. Comments? Mr. Slawter?

Slawter - I had a question of specifically who would be doing that. Would one of the Council members be doing that or if you were directing one of us to do that. I just wanted to be sure if I were to be responsible for doing it.

Swicegood - Mr. Slawter to do it, if the motion carries.

Mayor - Are there any other comments? My comment is that we need to proceed in an orderly manner. I think this is skipping over the local investigation that I think should occur before we call in the Attorney General. They may very well not want to pursue this until we had exhausted local remedies. But if that's the pleasure of the Council, we will make a determination.

Sitnick - Mr. Mayor, I have a question. It's my understanding that we had one City appointee to the Corporation Board, Mr. Leo Manley. The Vice-Mayor said that he did not know about this Corporation for the three years he's been on Council and he said you didn't know about it - how long have you been.

Slawter - Well I hate to say not knowing about that Board - but since 1983. When Vice-Mayor Peterson asked me about the Board three or four weeks ago.

Sitnick - So in other words there has not been - our policy on Council has been that we have requested either a worksession or update meetings or minutes from boards and commissions that we make appointments to. We have also requested updates and worksessions from time to time with outside agencies that we have given funding to, to let us know what they're doing with the money and all of that. Have we never gotten a report from the Opportunity Corporation in 22 years?

Slawter - We've received an audit for their ending June 30, 1994, that is attached to the memo that I gave out to Council yesterday.

Sitnick - And that's the only thing we've received either in writing or by way of minutes, or by way of Mr. Manley being called in for reports. Something that's in the public record that we can go back into the vault there and look and see.

Slawter - I'm not aware of anything, but I don't know - that doesn't mean we haven't gotten anything. But I'm not aware of anything. Some other staff may be aware of something, I don't know. There are several department heads back there, if somebody does know.

Sitnick - .... Mr. Burton, are you at liberty to comment as to whether or not Mr. Manley has ever reported back. He was our City appointee.

Burton - Yes, and if you'll check your By-Laws there, he has been appointed for some time. The public officials, they have no time frame, they can serve on our board for life. It's in writing in that information you have before you.

Sitnick - No, my question is, are you aware, did Mr. Manley at any of the Board meetings ever indicate that he had come and had a session with City Council to update them on the activities of the Corporation?

Burton - I don't recall. But I would think that he should have, or the Council should have found out why he hadn't because he was an appointee. And as I mentioned, there is no time frame for public officials.

Sitnick - Yes. But you understand that's how -

Burton - Since that time though we have received CDBG money at the outset. We did receive the monies. ... one reason because we were cut from the funds that you haven't been in contact, maybe, as far as funds. I can say that I do know in touch with the County and of course when we received the $10,000 grant, we had to ... to the City - of our budget.

Sitnick - Perhaps there's some culpability on the part of previous councils for not requesting a meeting with Mr. Manley to be updated.

Burton - We have followed the guidelines that you set for us in CDBG on last year when we got the $10,000. That was a basic requirement. And you did receive that information because we were approved.

Sitnick - Yes, and the monies used from that which was a little over $2,000 that was used for weatherization?

Burton - That's correct. The guidelines for CDBG state clearly what you can use that monies for. As a result we try because we are working with low income houses.

Sitnick - Do you know whether or not 30 years ago or 25 years ago the City gave any monies to the Corporation?

Burton - They did at one time I understand. I don't have the details. They gave monies, they gave matching buildings ... over the years.

Mayor - I understand you started in 1965. Is that correct?

Burton - Yes. And as I said, Community Development funds ... years. They gave us $10,000 and all of a sudden, it has been over ten or 12 years since we've received any monies. As I said, we have the records and we'd be glad if you could appoint a committee to work with us or come over and review or books, what have you. I was told that I

could readily give you that permission. At your time frame. It's no problem as I understand it. But other than what happened between here and now, I left in September and as a result, as I said, I came back this past weekend. What I hear and what I'm hearing and what I read in the paper - I'm just not aware and I cannot answer that. But I'm sure that from your investigation all your questions can readily be answered and documented. Cause everything as I know - some of the things I hear - everything is above board. Community action agencies are audited every year. State, federal, we have to go through those processes before we can get our funding for the next year. We have to have an audit before we receive any funds. We have a record as far as our audits go of having clean records through the years and of course, we can verify them through auditors, through the state. We have our people, I understand, have been asking for audits. We mail out six audits and as I understand it, they were signed by the past director. So, it's public notice throughout. And it's no secret. When you review audits, you can readily see - and that's what we would like, we welcome someone from the City . . . bodies to know to come in and feel free to ask any questions. So we don't have any closed books or closed - it's an open operation.

Mayor - Are there any other questions?

Sitnick - I would just like to correct the record, I said I have gotten eight phone calls that were identified before I walked into this meeting. I got a ninth message - somebody called regarding the Opportunity Corporation - investigate totally and completely, don't leave any stone unturned. That was the ninth call, just to correct the record.

Mayor - Come forward and state your name.

Chris Wren - Good evening Mr. Mayor, Vice-Mayor and members of the Council and public here. My name is Chris Wren, spelled like the little bird. I was hired as a temporary tenure as the Acting Weatherization Coordinator during this previous fall so I have some inside information on the Opportunity Corporation, but I am here to speak mainly from the people who are out there to receive the benefits that the Opportunity Corporation has to offer. I have documents here, with me this evening, that these people are dissatisfied with the way the Opportunity Corporation is doing. I can prove to you that any audit that I was present during was a farce. I can also show you how I can steal money from the Opportunity Corporation and hide it - and I was there for 30 days. Okay, so this does need to be investigated.

Councilwoman Field - Were you working under Ms. Williams?

Wren - I was there under Ms. Williams.

Field - Not under Mr. Burton?

Wren - Correct. Ms. Williams and I have no connection whatsoever. I called up there and volunteered my assistance because I understood that they got two houses done in four months, three months excuse me. There were people out there including a 16 year old woman with a brand new baby cold and hungry. There was another person out there, a disabled veteran, who had been on the waiting list for six months and could not get a response - actually had to call Social Services Department to get them to call us. The office manager of the Weatherization Department did not respond in a human manner to these

people. There are several people out there whose houses are in worse condition than before the Weatherization Department got there. The Weatherization Department being under Mr. Burton's reign, okay, at the time of these encumbrances. I have documentation from another person living just inside the Buncombe County line where she had new windows installed in her home - that evening the weatherization coordinator at the time went there and removed the windows from this person's home. She did not know why. She is just a, excuse the expression, tobacco farmer. She is a country person - doesn't understand what's going on here. Doesn't understand what's going on at the Opportunity Corporation but she asked for help and got ripped off. And they hid it. I asked, when I was there as Acting Weatherization Coordinator, the energy assistant and for better explanation, office manager, of the Weatherization Department, refused to work underneath me because I refused to sign things without having it documented first. Okay. The previous Weatherization Coordinator gave her permission to sign things. She signed his name continuously - she has been there 17 years. Okay. There are supposed to be bids accepted by different vendors out there. All the materials are being bought from one vendor. I have contacted, during my employment there, I contacted both those vendors and have some information possibly for you. I can go on right now and get on the soap box for an hour.

Mayor - Let's not do that, leave your name, your address and your phone numbers so that we can contact you in the future. I'm still of the opinion that the investigation should be done locally first, and then if the Attorney General needs to be called in, that's when we need to do that.

Wren - I agree with you Mr. Mayor but it needs to be public information because an audit can be covered up.

Mayor - Do we have any other comments? We have a motion on the floor? Yes sir?

My name is Nicasio Martinez. I moved in the Asheville area about eight years ago. I have been to previous City Council meetings, County Commissioner meetings, School Board meetings, name it. I have been active most of my life helping citizens who have less than I have and I don't have much. What you are hearing about the Opportunity Corporation I believe. My observation of those that we deem to be of the underclass, there is a ... kind of assistance by peoples whose name is on everything in this City. They're serving on everything. It's a very narrow list. I have tried to work for ABCCM, Mountain Housing Opportunity, Housing Development Corporation of Asheville. I have many years of experience working for multi-million dollar funded community action programs. I've worked in weatherization. What I am most concerned, when in Asheville will we actually come to real self-help programs. The Opportunity Corporation could have done a magnificent, magnanimous job. When I first came to this City they told me to go to YMI. Go to YMI. Go to YMI. I finally went to YMI, everything I presented to YMI was rejected. I am concerned about programs like Head Start. It's under the Opportunity Corporation. But when I look at what the City School Board is not graduating black children, a class of over 300 blacks, less than 25 made the graduating class, less than half of them got diplomas and less than half of those getting diplomas were males. What does this have to do with the Opportunity Corporation? What has that got to do with the ... in this City? It tells me they are asleep. We are perpetuating the violence that is in this City and you're wasting the money that could be actually put to redeeming the finances and the health and the education of these communities that the

Opportunity Corporation was responsible for improving the self-help. Now when I read in the newspaper that a man retiring from a corporation like that suggests that he should get an automobile - he's not working for General Motors. I think an investigation is in order, but not the way Asheville, North Carolina, investigates. They have to ... the Supreme Court right until recently. If this City Council fails to call for an immediate investigation by getting a gentrified list together as to who is going to look into this matter, it will be typical snow falling in July in Asheville, North Carolina.

Mayor - H.K., did you have a comment?

H.K. Edgerton - I just want some clarification on Councilman Peterson's motion. It seems to me that, I heard Councilman Peterson make a motion and that motion was passed with an objection from you Mr. Mayor.

Mayor - I did not object to that second motion.

Edgerton - I'm so thoroughly confused now, I just want to know what happened to the first motion that Councilman Peterson made. I don't understand what's happening here.

Mayor - It was passed. He indicated that he would like to hold on any disbursement of funds regarding that contract, or the appropriation that was passed on December 6, 1994. We have another motion on the floor right now regarding a state attorney general and that's were we are at this point.

Edgerton - Also Mr. Mayor. This may not be the right time to comment, but I'm going to leave you because I know you're very busy. I applaud Councilman Peterson's desire to have an investigation. But I also would like to say something on behalf of Mr. Burton and I don't really care what happens, well, I do care. But I was fortunate enough to be a student of Mr. Burton's at Stephens-Lee High School when Mr. Burton was the Dean of Schools and I know Mr. Burton has a long track record of caring for African Americans in this community. I would like to personally thank Mr. Burton for being one of the persons that was responsible for me being able to graduate from Stephens-Lee High School among many African Americans in this City. And I don't know what happened at the Opportunity Corporation and I do agree with Councilman Peterson that we do need to get to the bottom of this, but I would very much so caution the peoples of this City to make a judgment on Mr. Burton because I have found Mr. Burton to be a gentleman of fine quality and of fine character and I also am a very close friend of Dee Williams and I know Dee Williams is a genus when it comes to financial matters. So I take a great deal of creed in her concerns. But again, I've been out there on a limb, if you will, having the limb sawed off under me, Mr. Mayor when my intentions were to help the people and do good things for the people, so I would caution, until we do, Councilman Peterson find out exactly what happened. And then I applaud you for asking for an investigation. I would caution this City from making any judgments on Mr. Burton because I find Mr. Burton to be a fine gentleman.

Mayor - Thank you for those comments. Any other questions or comments. I think we're ready to vote.

Field - I just have one small comment and that is in this country people are innocent until proven guilty. And I think clearly we have a situation where there appears to be some perhaps misuse or a problem and I would certainly support an investigation to clear the air. I am not

sure that I understand why the Attorney General needs to do this but I agree there needs to be something done. But right now, Mr. Burton as far as I'm concerned, is innocent. The Opportunity Corporation is innocent, and Ms. Williams is innocent until we get to the bottom of this.

Councilman Watts - The feedback that I get is that the concern of the public - nobody is talking, the board, nobody is talking. And when nobody talks, that arises curiosity and suspicion. And I think ... in the open and more people talk, the board talks, the director talks, to the citizens ...

Mayor - We have a motion on the table at this point. We are going to call in the Attorney General.

Sitnick - Is there a fee, number one. And number two, is there a requirement on our part to provide materials and information, documentation and all of that?

Slawter - There would not be a fee. I'm sure they being a state agency and it's their duty to become involved in matters of investigation of such agencies where that is called for. What all they would require from the City, I really don't know. All I could do would be to contact them and tell them of the Council's concerns and pass along to them Council's request if you make it, that they investigate. And it would be up to them how to pursue that. I just don't know.

Sitnick - I would only say that in order to expedite things in consideration of time that we put together as much information, some of things that we've gotten - maybe some comments from the public and I would certainly like to go beyond what we have here today. Maybe we could meet with some folks before he actually comes in here and starts working. Maybe he wants to meet with folks. I don't know, I think we need to find out the process.

Watts - Inasmuch as federal and state and some local funds are involved in this, I'm sure that the federal government - when they have a federal agency, I mean investigation or something reference to that?

Slawter - Any federal agency that provides funding to the Opportunity Corporation or the City of Asheville or any other body requires audits on, I would think, on an annual basis and has the right to investigate. And I don't know if it's HUD or who the funding comes to the Opportunity Corporation from, but it likely is HUD. They could certainly investigate. HUD could very well investigate and HUD may well be a better choice. I don't know what the scope of the investigation is going to be. Either of them could be called upon to make the investigation. HUD or any other federal agency that provides funding for the agency. An agency such as HUD will investigation by either the City Council or a combination of the City Council along with the County Commissioners or the Madison County Commissioners would focus on, I would think, on accounting type matters and getting a better grasp of what has happened with expenditures. An Attorney General investigation is generally criminally oriented. And if they even would investigate, I don't know but

Mayor - I don't think that they would based upon clearly allegations that have been put forth at this point. That's why I feel that we need to go a step further locally before we call on any other investigation from the state or federal agency. I don't think that they're going to do it.

Swicegood - We can talk about it. The motion might not pass. Let's get it on the table.

Mayor - I've tried several times to have a vote.

Sitnick - And your motion was?

Swicegood - To have Mr. Slawter call the Attorney General and investigate the Opportunity Corporation, if the motion passes.

Mayor - All those in favor of the motion say aye. All opposed. (Mayor Martin and Councilwoman Field voted "no" - motion carries on a 5-2 vote.)

Sitnick - And I'd like to make another motion. If the Attorney General informs you Mr. Slawter that he is not the appropriate office to investigate these allegations, then I will ask for you to find out where we should go from there in order to not only clear the air, but to clear the air and to make sure that this program is apropo of that we heard from the public that this program is actually effective and doing what it is supposed to do. So basically my motion is to request of the City Attorney if the Attorney General's Office is not the appropriate place to request this investigation that you research what is the appropriate office, whether it's the federal office, maybe Mr. Taylor's office would know, maybe HUD would know. The funds are HUDs.

Wren - The Department of Energy is the one who supplies most of the Weatherization Departments.

Sitnick - So it's multiple funding sources. That complicates it even more. So we've got to find out the proper channels.

Mayor - You've heard a motion, do I hear a second.

Councilman McClure - Second.

Mayor - We have a second. Do you have a comment Mr. Slawter?

Slawter - Only that if there are multiple sources of funding for the Opportunity Corporation, as I said awhile ago, I figured most of it came from HUD. This gentlemen said that the Department of Energy also funds. There may be

Unidentified person from audience - Financial records indicate that ... Department of Health and Human Services.

Mayor - We have a motion on the floor and the motion is that when the City Attorney, Bill Slawter, determines where, or if the Attorney General is not the proper investigating agency, that he pursue questioning the Attorney General's Office to determine where he should go.

Sitnick - This is to expedite things so that you don't go call the Attorney General who says I'm not your guy and we wait till the next meeting in two weeks where you come back to us and say, he's not the guy, and then we make another motion to direct you in another direction. Just to keep the ball rolling.

Slawter - So I'm not only to investigate who should investigate, but ask them to undertake that investigation. Okay.

Mayor - Let's take a vote on this motion. All those in favor? All opposed. (motion carried unanimously).

V. CONSENT:

The resolution authorizing the City Manager to enter into an agreement with the Land-of-Sky Regional Council relative to transportation planning was removed from the agenda due to motion passed earlier in meeting.

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 20, 1994**

B. **RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE LAND-OF-SKY REGIONAL COUNCIL RELATIVE TO TRANSPORTATION PLANNING**

Item deleted from agenda.

C. **RESOLUTION NO. 95-2 - RESOLUTION AWARDING BIDS FOR FLEET VEHICLES**

Summary: Two bids were received for several vehicles for use in the Police, Fire, Engineering, Finance, Public Works and Parks and Recreation Department. It is recommended that awards be made by item to the low bidder, all of which meet specifications, as follows: Bid Items 1, 3, 11, 12 and 13 in the amount of $315,088 to Parkway Chevrolet Inc., Asheville, N.C.; and Bid Items 2, 4, 5, 6, 7, 8, 9, 10 and 20 in the amount of $201,752 to Matthews Ford Inc., Asheville, N.C. A complete bid summary is attached as Exhibit "A".

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D. **MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO AMENDING THE ZONING ORDINANCE REGARDING REGULATION OF THE LOCATION OF ADULT BUSINESSES**

E. **MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO REVIEWING A GRANT APPLICATION FOR CAPITAL FUNDS FOR THE TRANSIT AUTHORITY**

F. **MOTION SETTING A PUBLIC HEARING FOR JANUARY 24, 1995, RELATIVE TO REZONING ONE LOT ON OLD COUNTY HOME ROAD WHICH IS ADJACENT TO 302 NEW LEICESTER HIGHWAY AND PARTIALLY REZONE 302 NEW LEICESTER HIGHWAY FROM R-5 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT**

G. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, RELATIVE TO APPEAL TO THE CITY COUNCIL WHEN THE PLANNING AND ZONING COMMISSION DENIES APPROVAL OF A PRELIMINARY PLAT FOR A SUBDIVISION**

H. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO AMEND THE ZONING ORDINANCE TO PROHIBIT PARKING OF LARGE MOTOR VEHICLES ON PROPERTY IN RESIDENTIALLY ZONED DISTRICTS**

I. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO ZONE THE WEST II ANNEXATION AREA AND TWO EXTRA-TERRITORIAL JURISDICTION LOTS**

J. **MOTION SETTING A PUBLIC HEARING FOR FEBRUARY 7, 1995, TO ZONE ONE LOT ON ROCKY RIDGE ROAD TO CH COMMERCIAL HIGHWAY DISTRICT**

Councilwoman Field moved for the adoption of the consent agenda. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Patty Joyce, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on January 4, 1995:

OAKLEY ELEMENTARY SCHOOL

This project is for the proposed construction of a new Oakley Elementary School on Fairview Road. The project will retain several older buildings and construct a larger two story classroom building and provide a larger and safer student drop off area.

On January 4, 1995, the Oakley Elementary School project was unanimously approved by the Planning and Zoning Commission with the following conditions:

1. Submittal of appropriate letters stating water and sewer availability;
2. Submittal of appropriate letter approving fire protection
3. Receipt of driveway access permits
4. Approved interim parking plan during construction (conditions 1-4 to be met prior to the issuance of the zoning permit)
5. Traffic conditions to be advanced or completed prior to issuance of certificate of compliance:
   - A. That the Buncombe County School Board agrees to work jointly with the City of Asheville to participate (50% each) in a consultant study for a preliminary route design to determine the feasibility and estimated cost of a realignment project for Liberty, Cedar, Fairview Road intersections. The City's participation in the design study will be in the form of in-kind engineering work to assist the consultant. This project will directly address the function of the street system around Oakley School, traffic flow along Fairview Road, the safety of pedestrian traffic in the area, and impact of outlying planning developments. If the realignment project is determined to be feasible, it will be evaluated during the City's CIP process and prioritized as with all other projects within the city limits.
   - B. That the Buncombe County School Board agrees to the dedication of School Board property for any right-of-way along Liberty Street and Fairview Road for future traffic improvements up to, buy not beyond, a point indicated on the approved site plan (as needed).

C. That the Buncombe County School Board agrees to work with the City of Asheville and the NC DOT to improve the traffic congestion problem in the immediate area of the new Oakley Elementary School.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

CARSON'S CREEK APARTMENTS - PHASE II

Meridia Development Inc. has submitted plans for Carson's Creek Apartments, Phase II. This project is proposed to have five buildings containing 100 apartment units on an 8.8 acre tract that is directly adjacent to the site of Carson's Creek Apartments, Phase I, located at 1640 Hendersonville Road.

The Planning staff and the Planning and Zoning Commission have determined that the site plan, as submitted and revised, meets all the requirements of the zoning ordinance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. ORDINANCE NO. 2170 - BUDGET AMENDMENT RELATIVE TO CENTRAL ASHEVILLE RESOURCE CENTER

During Pre-Council discussion Mr. Gene Ellison stated his request for $6,000 (in lieu of replacing the front window and front entrance which was estimated at $6,000) from the City for this project, the distinguishing point is that the Center is providing not only a sub-station for two beat officers, they are also providing a fully separate built out space for the community police team, which includes seven officers. The Central Asheville Resource Center serves the entire City, not just the Montford Community.

Councilwoman Field moved to adopt the budget amendment in the amount of $6,000, less the cost of the sidewalk repaired in front of the Center. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2170 was passed on its first and final reading.

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C. MOTION RELATIVE TO STUDY OF BUDGET SAVINGS AND COST CUTTING MEASURES

Councilman McClure said that on today's agenda there is already $187,000 in studies and consulting fees. He also attended a user fee worksession earlier. The purpose was to look for additional revenue. We also met with our legislators and asked them to give us some opportunities for additional revenues. We cut over $3 million from this year's budget. He is convinced that there is a lot more room for savings without cutting essential service. He then moved that City Council is committed to no tax increases. That no new taxes or increases, user fees, or revenue enhancements will be considered until the City Council has been provided a complete and thorough study of budget savings and cost cutting measures. We hereby direct the City Manager to conduct such a study and report on every possible savings. This motion was seconded by Councilman Swicegood.

Upon inquiry of Councilwoman Field if his motion included the stormwater utility topic to be discussed by Council at their upcoming retreat, Councilman McClure said that it did.

Councilman McClure said that he had a difficult time asking the people of Asheville to continuously cut their budgets and the City of Asheville is not willing to cut their budget. If all of Council is convinced that this has been done, then we can look at alternative that we have. He said that no one should be binded 100% but it is a statement of intent on the part of Council.

Councilwoman Sitnick said that while she appreciated Councilman McClure's intent and she believes it has been the intent of this Council to cut the fat, when Mr. Farris was here, we asked him to do that also. I think we all had a good deal of faith in the fact that he looked not for every $5 and $10 but, like you said for the nickel and dime. While I think we should be on-going with making sure that we are accountable for every penny we spend, I think that it's important to remember there are needs in this City that are not being met now, whether they are infrastructure needs or service needs. While I am 1,000 percent in your corner for wanting to make sure that we are spending every penny wisely, and I don't think that anybody on this Council doubts that I am committed to that, I would also not like to create a situation that would not allow us to pay for the things we need - not that we want, mind you - but that we need. I wonder whether or not we can accomplish the same thing by just requesting of the City Manager that his number 1, 2 and 3 priorities are making sure that every penny that we collect is spent wisely and spent with priorities in mind and spent on our needs rather than on the things that we would like to have.

Councilman McClure agreed with Councilwoman Sitnick's comments but he also wanted to make sure that we are confident that we have done our fiduciary responsibility of cleaning up our own shop before we start asking the citizens of Asheville to pay for these things. That is his intentions of this motion - to say that this City Council is committed to looking at every possible cost savings before we even consider going back and asking the citizens to do something - we want to know what our cost savings are. That's what his intentions are. We are committed to looking for every cost savings before we go outside to look for other sources of revenue.

At this time, the motion carried on a 6-1 vote with Councilwoman Field voting "no".

D. STORMWATER USER FEE COMMITTEE APPOINTMENT

Councilwoman Sitnick announced that Ron Butler would not be able to continue his work on the Stormwater User Fee Committee due to business conflicts. She felt Ron's input was very valuable on that Committee and he would be missed. Per the Mayor's request, she would submit names to him for this vacancy.

E. UPDATE ON PAYROLL DEDUCTION POLICY

Councilwoman Sitnick asked the City Manager for an update on a policy regarding payroll deductions. Mr. Westbrook said that as soon as he gets the costs related to that he will come back to Council with a recommendation.

F. RETREAT ITEMS

Councilwoman Field wondered if, in light of the motion adopted earlier relative to no new taxes or increases, user fees, or revenue enhancements being considered until the City Council has been provided a complete and thorough study of budget savings and cost cutting measures, should Council delete from their retreat the topics of stormwater review and solid water committee.

Councilman McClure felt Council did not need to remove any items, but that they needed to be discussed and have a plan in place. He felt Council needed to know what the figures are. He stressed that anytime that Council is going to do something, particularly like the stormwater utility, then it needs to be revenue neutral somehow or another. How are we going to pay for it? Basically everything he discussed today is to make Council more aware of what Council is doing.

City Manager Westbrook felt the study requested will be part of the annual budget process and felt the items should remain on the retreat agenda.

Vice-Mayor Peterson also questioned the topic of Stephens-Lee Recreation Center on the retreat agenda.

Councilwoman Sitnick felt that sometimes it was best to stop doing something until you have more information, as Council has done today. But in the case of, for instance, the stormwater utility, I don't know how many extra hours I put in as Chair of that Committee, aside from the actual Committee meetings that take place at 8 or 8:15 a.m., all of the studies that I have been reading, all of the literature from other cities, all of the Corp of Engineers information that I have been reading, all of the phone calls - I don't know how many extra hours it puts into my week or the members of the Committee, but quite frankly, if we are not going to figure out a fair and equitable way to pay for something that we don't want to pay for but have to, this is not a matter of choice here, we've got a terrible situation in this community and it's not only $60 million that they estimated two or three years ago that we needed to repair the existing system, but we have to figure out a fair and equitable way for every single taxpayer to pay for the new needs of the program. Yes, we should keep our administrative costs absolutely at a bear minimum and the money should go into turning that shovel of dirt and putting in that conduit or that storm drain. But the fact is, somewhere, somehow, along the way, the people pay for everything. Including charitable donations that become community efforts to provide means. It all comes out of our pockets. The point of the Stormwater Utility Committee is to find the most fair and equitable way to pay for it. And that includes everybody who contributes to the problem must pay for the solution. My point is, if we are going to have a Council, and I respect everybody's opinion on this, but if we're going to have a Council that is eventually going to say - our policy is we're not going to charge the people to pay for the flooding, for the undermining, for the sink holes that are cropping up all over Asheville, then I'd rather know it now and not have to spend my precious time dealing with this, having meeting, sounding intelligent because I read five hours of information that week that gave me the knowledge to present to the Committee. This is not by choice. The whole point of having government is to provide the services and needs that the taxpayer must have and this is not a luxury item, I can assure you. This is not an item in the budget that we can cut fat out of. There is just one way to do this if we are not going to wash ourselves away. So, quite frankly, I would like to know about it sooner rather

than later, so I can save myself some of the 50 to 70 hours I put in on this Council a week. I voted for the intent to trim every penny, nickel and dime. We've all said that during the campaign, we've said it during our entire year of service here. But I also don't want to be penny foolish and not have the foresight and the political courage to act today and not leave a worse legacy to our children and grandchildren down the line by being stupid and saying, we want to get re-elected so we're not going to put anything out there for the taxpayer to have to pay. That's foolish, but we must assure the taxpayer that every penny is being considered as though it were our own. Knowing it's theirs.

Mayor Martin said we needed to keep it in so we can have the direction we need to have at this point to proceed.

G. MINORITY BUSINESS PLAN

Mr. H. K. Edgerton, Vice-President of the local NAACP and representative of Black Leadership Caucus for District 50, expressed strong objects to the Minority Business Commission moving to the Purchasing Division. He urged Council to take another look at this matter.

H. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of December 15-21, 1994: Ben Shulimson (Parks and Recreation), Ms. M.M. Freeman (Water), Liz Ewing (Water), Ann and Steven Guy (Water), Sherry Spurrier (Water), Cheryl Papay (Sanitation), Shannon Ratliff (Water), Marjorie Liverman (Streets), Tracey Timmerman (Streets), Jerry W. Snyder (Sanitation) and Joe Eckert (Water).

He said the following claims were received during the week of December 21-29, 1994: Kim Ponder (Fire), Michaelene Lord (Water), Porter Lamm (Sanitation), Scott Aiken (Water) and Geneve Stuman (Water).

He also said the following claims were received during the week of December 30, 1994, - January 5, 1995: Charles W. Christy, Treva Redmon (Public Works), Bob Gibbons (Water), Ray Kisiah Jr. (Water) and Scott Jenkins (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

I. CLOSED SESSION - PERSONNEL MATTER

At 7:40 p.m., Vice-Mayor Peterson moved to go into closed session to discuss a personnel matter. This motion was seconded by Councilman McClure and carried unanimously.

At 8:00 p.m., Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

J. APPOINTMENT OF MAGDALEN URBANEC BURLESON AS CITY CLERK FOR THE CITY OF ASHEVILLE

Mayor Martin, on behalf of the City Council, appointed Magdalen Urbanec Burleson as City Clerk of the City of Asheville. He said the terms of her appointment would be set forth in the form of a letter.

K. ORDINANCE NO. 2171 - BUDGET AMENDMENT TO PROVIDE FUNDING FOR THE CITY CLERK APPOINTMENT

City Manager Westbrook said that a budget amendment, in the amount of $4,850, would be needed to complete the funding for the City Clerk position.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2171. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2171 passed on its first and final reading.

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VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:10 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

BID REQUEST NO. 435-95
BID SUMMARY

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: THURSDAY, DECEMBER 8, 1994

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD, INC. ASHEVILLE, N. C.
1. 14) Police Vehicles for Patrol Use	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT PRICE:	$16,000.00	$16,529.00
	AMOUNT:	$224,000.00	$231,406.00
	DELIVERY:	90 - 120 Days	90 - 120 Days
2. 5) Mid Size Police Vehicles for Adm. Use with Police Package	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	1WL69 Lumina	Taurus
	UNIT PRICE:	$15,763.00	$15,335.00
	AMOUNT:	$78,815.00	$76,675.00
	DELIVERY:	90 - 120 Days	60 - 90 Days
* Alternate Bid 2A. 5) Full Size 4-Dr. Sedans for Police Administration	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	1BL19 Caprice	Crown Victoria
	UNIT PRICE:	$15,900.00	$16,429.00
	AMOUNT:	$79,500.00	$82,145.00
	DELIVERY:	90 - 120 Days	90 - 120 Days
3. 1) Mid Size 4-Door Sedan for Engineering Department	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	1BL19 Lumina	Taurus
	AMOUNT:	$13,777.00	$14,516.00
	DELIVERY:	90 - 120 Days	45 - 60 Days

Exhibit "A"

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.
4. 1) Mini Van for Finance Dept., Fleet Management Division	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	CM11006 Astro	Aerostar
	AMOUNT:	$15,928.00	$15,432.00
	DELIVERY:	60 - 90 Days	45 - 60 Days
5. 1) 1/2 Ton Heavy Duty Pickup Truck for Police Dept. Animal Control	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	CC10903	F150
	AMOUNT:	$13,300.00	$12,291.00
	DELIVERY:	60 - 90 Days	45 - 60 Days
6. 1) 1/2 Ton Heavy Duty 4-WD Pickup Truck for Parks and Recreation	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	CK10903	F150
	AMOUNT:	$15,590.00	$14,970.00
	DELIVERY:	90 - 120 Days	45 - 60 Days
7. 1) 1/2 Ton Heavy Duty Pickup Truck for Parks and Recreation	MAKE:	1995 Chevrolet	1995 Ford
	MODEL:	CC10903	F150
	AMOUNT:	$12,537.00	$11,790.00
	DELIVERY:	90 - 120 Days	45 - 60 Days

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N.C.	MATTHEEWS FORD INC. ASHEVILLE, N. C.
8. 1) 1/2 Ton Heavy Duty Pickup Truck for Parks and Recreation	MAKE: MODEL: AMOUNT: DELIVERY:	1995 Chevrolet CC10703 $12,200.00 90 - 120 Days	1995 Ford F150 $11,559.00 45 - 60 Days
9. 2) 1/2 Ton Heavy Duty Pickup Trucks for Public Works, Sanitation Div.	MAKE: MODEL: UNIT PRICE: AMOUNT: DELIVERY:	1995 Chevrolet CC10903 $13,500.00 $27,000.00 90 - 120 Days	1995 Ford F150 $12,498.00 $24,996.00 45 - 60 Days
10. 1) 3/4 Ton Heavy Duty 4-WD Pickup Truck with Service Body for Public Works, Traffic Engineering Div.	TRUCK MAKE/MODEL: BODY/MODEL: MFG'R: AMOUNT: DELIVERY:	1995 Chevrolet CK20903 96 Monroe $19,735.00 90 - 120 Days	1995 Ford F250 696 Knapheide $18,604.00 45 - 60 Days

AUTOMOBILES AND TRUCK FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.
11. 1) Four Wheel Drive, 4-Door Utility Type Truck for Police Dept., Patrol Div.	MAKE: MODEL: AMOUNT: DELIVERY:	1995 Chevrolet CT10506 Blazer $24,446.00 90 - 120 Days	NO BID NOTE: Due to change in style by manufacturer new pricing on Ford Explorer not available at time of bid.
12. 1) Four Wheel Drive, 4-Door Utility Type Truck for Fire Department	MAKE: MODEL: AMOUNT: DELIVERY:	1995 Chevrolet CT10506 Blazer $23,390.00 90 - 120 Days	NO BID NOTE: same as item 11
13. 1) Four Wheel Drive, 4-Door Utility Type Passenger Vehicle for Fire Dept.	MAKE: MODEL: AMOUNT: DELIVERY:	1995 Chevrolet CK20906 Suburban $29,475.00 120 - 150 Days	NO BID NOTE: same as item 11

AUTOMOBILES AND TRUCKS FOR CITY OF ASHEVILLE

ITEM NO.		PARKWAY CHEVROLET INC. ASHEVILLE, N. C.	MATTHEWS FORD INC. ASHEVILLE, N. C.
** 20. 1) 3/4 Ton Heavy Duty Pickup Truck with Service Body for Parks and Recreation	TRUCK MAKE/MODEL:	1995 Chevrolet CC20903	1995 Ford F250
	BODY/MODEL:	96	696
	MFG'R:	Monroe	Knapheide
	AMOUNT:	$16,866.00	$15,435.00
	DELIVERY:	90 - 120 Days	45 - 60 Days
TERMS:		Net 30	Net 30
BID DEPOSIT:		5% Bid Bond	5% Official Check

* Alternate bid item #2A provides price comparison for full size sedans.

** Bid item #20 added to bid package by Addendum No. 1.
Bid items #14 through #19 are to be awarded by Asheville/Buncombe Water Authority.

Carolina Truck and Body Company submitted a 'No Bid'. The following companies did not respond: Fletcher Motor Company; Harry's Cadillac Pontiac GMC; Prestige Dodge Subaru; McMurray Chevrolet; Woodcock Motors; Liberty Chrysler Plymouth; Carolina Truck Centers; Skyland Oldsmobile; Ken Wilson Ford; Deal Buick; and Sam Johnson Lincoln Mercury.

CAuth

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DIVISION OF ARCHIVES AND HISTORY

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CITY OF ASHEVILLE

MINUTES

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Tuesday - January 24, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-3 - RESOLUTION TO RETIRING EMPLOYEE LARRY LOW

City Manager Westbrook read the resolution stating that Larry Low has been an employee for 20 years and has requested retirement from his position as Code Enforcement Officer in the Building Inspections Division of the Fire Department. He expressed City Council's appreciation to Larry for his service to the City of Asheville and its citizens.

Resolution No. 95-3 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 171

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REVIEW A GRANT APPLICATION FOR CAPITAL FUNDS FOR THE TRANSIT AUTHORITY

RESOLUTION NO. 95-4 - RESOLUTION AUTHORIZING THE EXECUTING OR FILING, AS APPROPRIATE, OF N.C. TRANSPORTATION GRANT AGREEMENTS, GRANT APPLICATIONS, ANNUAL OR BIENNIAL APPLICATIONS, ANNUAL BUDGETS, AND OTHER SUCH DOCUMENTS, AS APPROPRIATE, WITH THE N.C. DEPARTMENT OF TRANSPORTATION PURSUANT TO RELEVANT SECTIONS OF THE FEDERAL TRANSIT ACT OF 1991, AS AMENDED

Mayor Martin opened the public hearing at 4:12 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey, Transportation Planner, said that the City of Asheville and the Transit Authority are applying for a capital grant from NC DOT and the Federal Transit Administration in the amount of $110,000 for the purchase of shelters and benches and to recover City funds expended last year to clean up contaminated soil at the transit maintenance facility. The federal share will be $88,000, the state share will be $11,000, and the local share will be $11,000. The local share is programmed in the current Capital Improvement Plan and will be shifted to Fiscal Year 1996.

Mayor Martin closed the public hearing at 4:14 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-4. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 172

B. PUBLIC HEARING TO REZONE ONE LOT ON OLD COUNTY HOME ROAD AND A PORTION OF A LOT AT 302 NEW LEICESTER HIGHWAY FROM R-5 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

ORDINANCE NO. 2172 - ORDINANCE TO REZONE ONE LOT ON OLD COUNTY HOME ROAD AND A PORTION OF A LOT AT 302 NEW LEICESTER HIGHWAY FROM R-5 RESIDENTIAL DISTRICT TO CS COMMERCIAL SERVICE DISTRICT

Mayor Martin opened the public hearing at 4:14 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Carl Ownbey said that this ordinance seeks to partially rezone a lot at 302 New Leicester Highway (PIN No. 9629-18-31-5958) and to rezone one lot on Old County Home Road (PIN No. 9629-18-31-5705) from R-5 Residential to CS Commercial Service. The subject property is approximately 4.8 acres and fronts on both New Leicester Highway and Old County Home Road. Each lot contains one residential structure. The property is zoned on the north by commercial service, on the east by commercial service and residential, and on the south and west by residential. The 2010 Plan recommends low density residential uses in this area, except for institutional (Eliada Home) to the northeast.

The partial rezoning at 302 New Leicester Highway was denied in September of 1991 and the property owner did not appeal it to the City Council.

The Planning staff reviewed the rezoning request and recommended that the Planning and Zoning Commission deny the request based on the current character of the area being residential and manufactured homes. However, at the January 4, 1995, Commission meeting, the Commission approved the rezoning request by a 5-1 vote.

Ms. Jane Gianvito Mathews, members of the Planning and Zoning Commission, said that the majority of the Commission felt the area was commercial.

Mayor Martin said that his office had received a call from Ms. Virginia Lance who called in her support for the rezoning.

Mr. Don Noakley, commercial broker, spoke in favor of the proposed rezoning.

Mr. Ernest Harris, area resident, said that he had no problems with the rezoning except that area residents did not want any exit or entrance from Old County Home Road due to that road already being heavily traveled. As long as all traffic flowed onto New Leicester Highway, the rezoning was fine with him.

Ms. Linda Harris, area resident, said that she did receive notice of the Planning and Zoning Commission hearing, but not the City Council public hearing.

Mr. Bruce Moss, petitioner, said that there are no intentions to put any kind of exit or entrance onto Old County Home Road. He said that he would place in his deed a clause restricting access or exit onto Old County Home Road.

Upon inquiry of Councilwoman Sitnick, Ms. Julia Cogburn, Planning Director, said that the notices sent out for the Planning and Zoning Commission meeting went to the same people for the City Council public hearing. Some type of random phone calls might be a solution to a problem such as this.

In response to another question by Councilwoman Sitnick, Ms. Cogburn stated that if City Council rezoned the property to Commercial Service, the City could not prevent someone from accessing onto Old County Home Road.

Mayor Martin closed the public hearing at 4:34 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2172. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2172 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 366

C. PUBLIC HEARING TO DEMOLISH 431 STATE STREET

ORDINANCE NO. 2173 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 431 STATE STREET

Mayor Martin opened the public hearing at 4:35 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Inspections, said that inspections and notices began on September 16, 1991. The inspection revealed that the dwelling is more than 50% gutted by fire, has no sanitary facilities and the dwelling is abandoned, is accessible to children and has no electricity. The owner has failed to comply with the Order issued on August 5, 1994, giving them 30 days to demolish the property located at 431 State Street.

Mayor Martin closed the public hearing at 4:35 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2173. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2173 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 368

D. PUBLIC HEARING TO DEMOLISH 56 BURTON STREET

ORDINANCE NO. 2174 - ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 56 BURTON STREET

Mayor Martin opened the public hearing at 4:36 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Inspections, said that inspections and notices began on March 26, 1993. The inspection revealed that the dwelling has insufficient sanitary facilities, no water, no electricity, and has pest and garbage infestation. The structure is abandoned and is being occupied by vagrants and is accessible to children, causing the dwelling to be unit for human habitation. The owner has failed to comply with the Order issued on May 9, 1994, giving them 90 days to demolish the property located at 56 Burton Street.

Mayor Martin closed the public hearing at 4:37 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2174. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2174 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 370

E. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE REGARDING REGULATION OF THE LOCATION OF ADULT BUSINESSES

ORDINANCE NO. 2175 - ORDINANCE AMENDING APPENDIX A OF THE CODE OF ORDINANCES TO ADD ADULT ESTABLISHMENTS AS A CONDITIONAL USE IN CERTAIN ZONING DISTRICTS

Mayor Martin opened the public hearing at 4:38 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Planning Director Julia Cogburn - Mayor Martin and members of Council this ordinance is before you today at your request. You will recall that several months ago you asked that the Planning staff and the Planning and Zoning Commission consider an amendment to the zoning ordinance which would address the location of adult establishments. You will also be dealing a little bit later in your meeting with an ordinance which addresses the licensing of these same types of establishments, so let me preface both of these presentations by saying

I am going to be going through a lot of information with you. It is important that we get this information into the record because we need to establish, or you need to establish, a legitimate governmental interest in this type of regulations. There are a lot of constitutional issues with regard to the regulation of adult establishments and it is very important that this information be presented in the record and I just ask that you indulge me as I take this time to present this to you. We will be, it is important that all of this be made a part of the record and the City Clerk has the task of doing a verbatim transcript of this information. Adult establishments, as you know, are establishments which offer products, media services or entertainment which tend to be sexually oriented. Of course, the common terms for these types of establishments are such things as, topless clubs, adult book stores, X-rated movie theaters and the like. For simplicity the proposed ordinance which is before you defines regulated adult establishments using the same definitions that are provided for in the North Carolina General Statutes and I'm going to be presenting you with a copy of that definition. This is, for the most part, the same definition that you will find in your licensing regulations - there is one difference, and that is that the North Carolina General Statutes, and therefore the zoning ordinance, deals with massage establishments and you will note that in the ordinance dealing with the zoning issue, we have excluded how it reads, is bona fide therapeutic massage services provided by a licensed or registered medical professional or other persons certified by a State or nationally recognized organization. This section shall also not apply to any private or public fitness center or non-profit community recreational fitness and service organization, either of which provides massage therapy as a service incidental to the operation of a fitness center. So we were trying to exempt, of course, bona fide massage therapist. Asheville's current zoning ordinance makes no distinction between adult establishments and their respective counterparts which don't deal primarily in adult materials. For instance, an adult movie theater currently is dealt with through our zoning ordinance as any other movie theater and would be allowed where any other movie theater would be allowed. An adult bookstore, anywhere any other type of bookstore would be allowed. As I say, before I get actually to the proposed draft, I need to go through with you some important background information. And, first of all I'd like to touch a little bit on legal issues and some other ordinances that we have looked at in the preparation of this draft. Generally communities throughout the country regulate the location of adult establishments in one of two ways. There's basically two theories. One theory is what's called the concentration technique. Basically it requires adult uses to be concentrated in one particular location, the theory being that policing those types of activities and regulating those types of activities, if they are all in one place, become simpler. Most communities, however, use what's called the dispersal technique and that's the technique, that's the draft that's before you today suggests. And what that does is prohibit adult uses from locating close to each other - it actually works in exactly the opposite way. It spreads them out, if you will. The dispersal method is often used in combination with additional requirements that the adult establishments be separated a given distance from what are considered protected uses and those are uses generally where children tend to congregate, such as schools, churches, parks, and the like. Our research indicates and this is filled with reading and ordinances that we have looked at in the preparation of this draft. Our research indicates that 1,000 feet was the most typical distance between adult establishments imposed by local ordinances, so the establishments themselves would have to be spaced 1,000 feet from another establishment of that type. Again, the theory here is that such a distance would tend

to reduce pedestrian travel, reduce congregation around those types of establishments, and it would not allow for the problems associated with the concentration of adult establishments, which we will be reviewing momentarily. Our research also found that, and let me just go ahead and pass out to you, again because this needs to be part of the record - the research bibliography which was utilized in preparation of this draft. Our research found that in most of the communities where we looked at their ordinance that 500 feet was the most common separation requirement between adult uses and the "protected uses", the schools, the residential districts or whatever.

Councilwoman Sitnick - Julia, give me an idea of what 500 feet looks like.

Cogburn - Okay. If you're going from out in front of City Hall 500 feet, give or take some, is basically when you get to the first bay at the Fire Department. One thousand feet is roughly about when you get to front of the BB&T property. So 500 feet would be to the Fire Department's bays for the fire trucks. Both the concentration and the dispersal methods have been upheld by the courts, however, in regulating the location of adult establishments through zoning or licensing, the courts have made it clear that the total exclusion of such uses from the community's jurisdiction is prohibited and is unconstitutional. In other words, our ordinance needs to allow adult establishments a reasonable amount of land within the City in which to locate. And the courts have upheld 5% of the land area in a community as meeting that reasonableness test. Another requirement that the courts have established for upholding local ordinances is that the factual basis for the ordinance be reviewed at public hearings, and this is why we're going through all this information right now, prior to the adoption of any regulations. And this, of course, is to establish the legitimate governmental interest in this type of regulation. As stated in the purpose section of the draft before you, the interest of the City in establishing these requirements is to try to limit the decrease in property values and increased crime rates which are associated with concentrations of adult establishments. Numerous studies and extensive research in other communities have documented just these types of adverse impacts as a result of adult establishments locating in the community. These studies have dealt with economic impacts, decline on property values, the fiscal impacts of blight, increase in crime rates, overall quality of life issues and the reputation of a community. Then again, you have the bibliography in front of you as to the actual research that we have done. Let me just go through a few examples, and then I'm going to call on the Police Chief to talk about experiences here in our community. Declines in property values have been documented in studies that have been conducted in Los Angeles, in Indianapolis, and in the Twin Cities. These studies showed that areas where adult establishments concentrated experienced lower property sales and rental values and that the marketability of properties increased with a distance from such concentrations. The Indianapolis study in particular surveyed certified real estate appraisers nationwide who overwhelming responded that an adult bookstore would have a negative effect on residential properties located in the same block. A study in Los Angeles has shown that physical deterioration and urban blight can and do result from concentration of adult issues. A planning study in Phoenix compared three study areas with adult entertainment businesses and compared those with three areas with similar demographics but no such establishments and found 43% more property crimes, 4% more violent crimes and 500% more sex crimes in the areas with adult establishments. Other cities which have documented higher crime problems, and in

particular it's noted in most of these studies that in particularly there is an issue with sex related crimes. Other cities that have documented this include Minneapolis, St. Paul, Indianapolis, Los Angeles, Fayetteville and Gastonia, North Carolina. Gastonia, North Carolina, got us some information that looked at a particular area where there was a concentration of adult establishments and looked at a period from basically 1989 to mid-1994 and that area received a very high incidents of police calls during that period of time - it was basically a three block area. A high incidence in proportion to the types of percentages that were seen in other parts of Gastonia. There's also a study that's referenced in the research bibliography from New Hanover County and it's stated that even though there were not many adult establishments in their jurisdiction, they chose to regulate such establishments because they felt that it was important to prevent the detrimental effects of the possible locations and specifically reference one bookstore that had to ultimately be closed by the Sheriff's Department in New Hanover County following numerous raids to stop illegal activity at this particular establishment. So basically you can see that a proliferation of adult establishments can have a negative effect on many things in a community. Also one other study that's noted is the negative effect on a community's image to outsiders as well as residents. The City of Fayetteville has recently been wrestling with just this issue. And, recently changed their ordinance regulating adult establishments out of concern for the effect on the City's reputation. They had several industrial folks that were looking at coming to Fayetteville and actually made a decision not to locate to Fayetteville because of the red light district, if you will, in the City of Fayetteville. Let me know call briefly on Chief Annarino. He's going to talk about experiences in our community and then I will address what's actually in the proposed ordinance. Thank you.

Police Chief Will Annarino - Mr. Mayor, the City of Asheville has a brief history of this type of business. The first business operating beginning in late 1992. In reviewing our call for service logs in Asheville, the first business to open was Fox's Nightlife. From January 1993 to the present, there's been 64 calls for service to that location. The second business to open was the Mirage at 40-1/2 New Leicester Highway, which is now closed. Because of its brief history, there was only one call for service there - it operated for about three months. The next place to open, Mr. J.'s on New Leicester Highway has had 14 calls for service since December. That's all for service logs that we have at those three locations, which in effect means the calls we've had to respond to in reference to any type of incident that's occurred at that location. The types of calls that we've had at those locations has ranged from general vandalisms, to fights, to assault on a law enforcement officer, to larceny. We've charged two of the dancers for dancing without a license. We've charged one of the owners for failing to comply with the previous ordinance. On damage to property - that's probably a general outline of the calls for service we've had.

Sitnick - Mr. Mayor? Chief, when you have come upon these non-complying incidents, what action is taken? Is there a fine imposed, or some other kind of punishment - what happens if somebody, for instance, is operating without the proper license?

Annarino - In the past, the only compliance that the business owner was obligated to comply with was having a marquee designating his business with topless dancers. So if he was in compliance with that, he was in compliance with the entire ordinance of the City of Asheville. The dancers were required to obtain, of course, be 21 years of age,

we've charged one dancer with being less than 21 and if they comply with the requirements of having their picture made, filling out an application, inspections, then they're okay to dance.

Sitnick - So in other words, they're charged with something and then the only thing they have to do is to comply with the law after they're charged. There's no fine or additional?

Annarino - There is a civil - a fine involved in that. The dancers. I believe it's $50, if I'm not mistaken, is it Bill?

City Attorney Bill Slawter - The charge that was made with the owner for failure to give notice when he changed location without giving notice, I think was in District Court, wasn't it?

Annarino - Well she was charged without, dancing without a license.

Slawter - It's within the discretion of the judge.

Annarino - Yes. It's a very weak ordinance, there's no teeth into it and it's been inhibiting our investigations and enforcement of it.

Sitnick - I guess what I'm having a problem is, you know the law is the law and we're a nation of laws. And if somebody breaks the law, I don't think that the punishment ought to be an opportunity to comply with the law alone. I think that there ought to be some kind of penalty for not complying in the first place and a requirement to comply.

Mayor Martin - We are going to address that.

Slawter - And there was in the old ordinance as well. I don't have a copy of the old ordinance in front of me, but there was - and that's what the people were charged under, under the old ordinance. The dancer for failure to obtain the permit or being under age.

Annarino - Failure to obtain, in one incidence, failure to obtain our license.

Slawter - Penalty under the existing ordinance that's in place as of today before the new ordinance comes before you is punishment as a misdemeanor in district court and it's within the discretion of the judge how much fine to impose. It can be up to $500 or up to 30 days in jail. It's up to the judge as to how much to impose.

Annarino - And right now the only violation that the owner of a business stands to be charged is failure to publish on a sign that he has topless dancers employed.

Sitnick - So what you're saying is we need an ordinance with teeth and we need judicial backup.

Mayor - Any other comments? Herb?

Councilman Watts - Basically Chief, do you find those clubs that are in operation, basically you don't have any major civil disturbances, coming from them, like a lot of other clubs I have known about?

Annarino - I would say it's average of any, first and foremost they're a bar. They sell alcoholic beverages and you know, I think

their comparable to any bar that's in that business. You're going to have certain types of calls and we generally find that they're in the same pattern as any type of business like that. No more, no less.

Mayor - Any further comments? Thank you Chief.

Cogburn - With that background let me know run through real quickly the ordinance and what it proposes to address, just these issues that we've been talking about. As I indicated at the beginning of the presentation, adult establishments are defined in the ordinance in accordance with the North Carolina General Statutes which I provided you with a copy of, with again the exclusion of licensed bona fide massage therapists. Let me also make clear that this ordinance does not affect businesses which sell or rent sexually oriented materials that are incidental to the sale or rental of other materials. And a good example would be video stores that might have a portion of their business to sell X-rated videos, but that's not the predominance of their business. This ordinance treats adult establishments as a conditional use in the Commercial Highway, the Commercial Service, the Light Industrial, and the Heavy Industrial Districts. And what that means is that there are a certain number of conditions that must be met for this establishment to be located in one of those districts and that the approval for the location must go before the Board of Adjustment. And the Board of Adjustment can place additional conditions - they can't deny it if someone meets those conditions, but they can place additional conditions on the approval of a location. The conditions that are proposed that must be met. First of all, a separation of 1,000 from another adult establishment. Separation from residential zoning districts of 500 feet. And a separation of 500 feet of any adult establishment from any church, school, library, licensed child care center, public community center, or public park or playground. In all instances it's made very clear in this ordinance that it does not affect current operations or operations which would fail the conditions following the original permitting. And let me give you an example of that, for instance, if an adult establishment comes in, meets all the conditions, is located somewhere in the community and then the City zones a new residential district. The fact that now that adult establishment is not in compliance would not make them have to go out of business. Subsequent changes, or if a library were located close to it, the adult establishment was there before the library and so therefore it could continue. In all instances, except for multi-tenant facilities, you measure the distance from the lot line of the facility and not from the actual building itself. In multi-tenant situations you actually measure from where within that multi-tenant establishment, and that would be like a shopping center where you would have several different businesses, you would measure actually from the facility itself. The ordinance does not permit videos, live presentations, recorded music, etc. or printed material concerning the establishment outside of the establishment and it does require that external lighting be directed away from any residential areas which might be nearby. Let me real quickly move to the map.

Sitnick - Julia, before you do, can I ask another question? If you could back up for just a second, it was, is it true that the Board of Adjustment cannot grant a use variance?

Cogburn - Correct.

Sitnick - But if it's a conditional use, they can, is that what you're saying?

Cogburn - No. They could not. What would happen, with a conditional use, all the conditions have to be met and basically the Board of Adjustment oversees whether or not all of those conditions are met. The Board of Adjustment may not waive any of those conditions, that's basically granting a use variance. So basically what the Board of Adjustment does is look and see, does it meet all those conditions and then it listens to the public and it can add additional conditions. That's the wonderful thing. It can add some additional conditions if they are needed.

Mayor - The Vice Mayor has a comment.

Vice-Mayor Chris Peterson - Julia, in (b) and (c) I noticed that you say, like, residential 500 feet and then in church, schools, libraries, licensed child care centers 500 feet. Could we not change that to 1,000?

Sitnick - Yes. Definitely.

Cogburn - You could and let me get to the maps first, before you would make that kind of a decision because you need to, if you will recall at the beginning of the presentation, you need to make certain that there is an allocation of some land, a reasonable amount of land, within the community where these establishments can be located.

Sitnick - Is that 5%?

Cogburn - 5% is the upheld. Who knows what the magic number is. 5% has been upheld by

Sitnick - But it doesn't have to be more than 5%.

Cogburn - No, it doesn't have to be more than 5%, I'm just saying that's a benchmark which has been accepted by the courts.

Sitnick - 1,000 feet was my first comment I was waiting until you were done. 1,000 feet from residential and everything in letter (c). I'm looking at from here to the BB&T Building and to the first bay of the Fire Department, if there was nothing in-between us and them, it would be clearly visible to someone in my age bracket. You know the farther away the better. So I would certainly support that change.

Cogburn - Let me explain to you by reference to the maps why I think most communities including the Planning and Zoning Commission and Planning staff have gone with the 500 feet in order to not basically prohibit these types of establishments within the City limits. (steps to map) Basically what you will see here, the City limit line . . . computer generated fashion is to show basically the first thing that we did was to show the areas that were being recommended distance of 500 feet from residential districts. And then what we did was these circles that you will see, these are the protected uses, the churches, schools, or whatever. And this area . . . shows 500 feet. Actually the very first thing we did was to show all the areas that were Commercial Highway, Commercial Service, Light Industrial and Heavy Industrial and we went back and took away all those that were within 500 feet . . . and we excluded the . . . everything in green is the area basically under this ordinance that would allow adult establishments. Again, let me caution, this is not an exact map. We got it as close as we could possibly do. In some instances when you are dealing with computer generated maps, if a pin for a particular property falls outside of what you have commanded the computer to do, you might lose a little bit of

area, but I think it basically is right. It also does not show newly annexed areas. Because they were not zoned at the time that we prepared this map. But if anything, I think they would only add area, especially Brevard Road because a lot of that was zoned commercially or industrially. So I don't feel like that takes away from the area that would allow these types of establishments. It also does not show day care centers, but we did get with Buncombe County Child Development and get a list of the day care centers and found very few, if any, that would be in these areas and would affect the amount of area that would be shown in green. So we think that this is pretty close. And in doing some rough calculations, out of 25,984 acres in the City, this basically leaves approximately 2,265 acres available, if you will, to adult establishments which is 8.72% of the area in the City and we, as staff and the Planning and Zoning Commission, felt that was a very comfortable and sound legally amount of area. Now we could look at further restrictions if you are interested.

Councilwoman Barbara Field - Could you give me those numbers again?

Cogburn - Total acreage in the City 25,984, this leaves 2,265 acres, that's what's shown in green or 8.72% roughly again.

Sitnick - Can we not get that down to 5%?

Cogburn - Well I think what you would want to do is say we want to go 1,000 feet from these protected uses and then what we would do is just take those dots and just basically expand the area and we could do some calculations and bring it back to you. I would recommend that be done before you take your final vote, so we make sure we're

Mayor - I would think so too. My only reservation, see my gut feeling in listening to this, is like yours. Let's do 1,000 feet and restrict it. But when I think about it, I think if we do not have a defensible position, we could end up in court which would delay the implementation until the court is finished with the whole lawsuit. And then we've somewhat defeated our purpose, haven't we. So, we need to be sure we're treading on firm ground and if we can go 1,000 feet, let's go 1,000 feet. If we can go 750 feet and achieve the purpose, let's do that. But let's not get into a indefensible position where we are so out of line that we can be successfully sued and get it tied up in court, whereby letting the adult establishments continue as they are until the court suit is finished.

Councilman Swicegood - Julia, what is the big section down on the bottom?

Cogburn - It's the airport which the City controls the use of. But legally it would qualify.

Swicegood - And the next one up is what?

Sitnick - Julia, considering that 500 feet gives us almost 9% and I know you have to do this with real calculations and you know, measure your dots and all of that. But if 500 feet gives us almost 9%, it seems like 1,000 feet would give us about right.

Cogburn - Well, if you look at where some of these dots are, you're going to lose some area, but perhaps not enough significantly to make that - we could run that.

Mayor - You can check that?

Cogburn - Yes.

Sitnick - How long would that take?

Cogburn - We could be back in two weeks.

Peterson - I was just going to finish up by saying that as a Council person I would like to keep the goal of 1,000 feet seeing as you have been creating with that map, I'm sure you can find a percentage like you did the airport.

Mayor - And if you cannot do 1,000 feet, can you do 900, can you do 800?

Cogburn - The computer generates this. Maybe what I'll do is take a look at 1,000 feet and then if I feel that that might not be a legally sound amount then I'll do 750 or 800 or something like that and take another stab at it. In any event, we'll get back with you with a report in two weeks.

Sitnick - I would agree with that unless this scenario is possible. What would happen if we voted on this today with the amended 1,000 feet and then you came back to us in two weeks and said we'll this only gives us 4% of the land so let's up it a little. Could we then amend it, would that be an okay?

Mayor - We would have to go through the entire procedure again.

Sitnick - We would?

Mayor - Yes. So it's better to wait for input from staff before we take final action.

Slawter - Whether it's better to wait, I don't know what I should add because it depends on what's going to happen between now and two weeks from now, I guess.

Sitnick - Well I'm thinking about are there any establishments waiting in the wings to get established? I don't want them grandfathered in because we waited two weeks.

Cogburn - I am not aware of anybody that has come in and applied for a permit in our office.

Peterson - And to add to Councilwoman Sitnick, the one that closed, now you said that they would be grandfathered in, but isn't there a time frame like within 30 days? If it isn't then I think we need a time frame saying that, hey, if you've been closed for 30 days then you can't qualify to reopen.

Cogburn - Basically I think that if an establishment closed, it would have to come back in - this ordinance does not address how long it would have to be closed, but I would think that the minute that it shuts its doors, that the location permit would be lost and they would have to come back in and qualify. That's how I would interpret the ordinance.

Sitnick - Well, I would just like to go on record as saying that I would want some kind of a guarantee that we're not going to have four more businesses apply for licensing between now and the time we computer generate a 1,000 feet. And if I can't get that kind of a guarantee, then I want to vote on it today.

Cogburn - I can't make that guarantee.

Councilman McClure - Can you say that our ordinance is to achieve 5% of the land and whether it be 750 or 1,000 feet, can we, does it have to be so specific - if we're saying our goal is to achieve 5% of the property and then have the ordinance reflect either 750 or 1,000. Or is that being too vague? Or is that indefensible?

Slawter - I don't think Council can today adopt an ordinance directing staff to insert in the ordinance whatever distance requirements would achieve a specified 5% goal. Because that percentage within itself is somewhat vague, because it has to be as best as we can estimate it, but it's not a fine art figure.

Cogburn - The main thing that you need to do is target your regulation with your purpose. And your purpose is being spaced far from schools. And the only thing that the courts say is that in accomplishing your purpose, you can't prohibit them in your community. And then, so what does that mean and how much is a prohibition and, as I said 5% has been upheld but the purpose is to separate it. And Councilman Peterson feels like 1,000 feet is needed and so what we can do is go back and look and see if the percentage we feel is too low, or that you feel is too low, so that it might, we might run into some constitutional issues.

Sitnick - I'm still uncomfortable with this. I would like to amend it to 1,000 feet today, Council vote on it and if it's not right, even if we have to sit here another hour with your presentation, you do such a good job that I'd be willing to sit and listen to it again. I just don't want to take a chance.

Peterson - I'll agree with Councilwoman Sitnick.

Sitnick - So right off the bat, can I make a motion now?

Mayor - Not yet.

Sitnick - Okay, I'll wait.

Mayor - Any further comment from Council before I open it up to the public?

Sitnick - I would just like to commend the Planning Department. I was present at the Planning and Zoning Commission meeting, as a matter of fact that's why I ran out of the presentation to our legislative delegation to come back here and hear that presentation. And they reviewed 37 other studies, zoning regulations, ordinances in other cities. Thirty-seven of them, in order to come up with this draft and I want to commend them on their thoroughness in establishing what we have before us today.

Mayor - Okay, and I would also point out that this is the first of the public hearings we're having today, or new business, regarding the adult establishment businesses. The next one will be licensing and the third will be fees and charges. They will come a little bit later on in this meeting. Okay, do we have any comments from the public regarding this? I'll close this public hearing at 5:12 p.m. Members of Council have been furnished a copy of the ordinance, therefore, it will not be read. And I'll ask for a motion relative to adoption of the ordinance.

Sitnick - Mr. Mayor, I would like to make a motion that we adopt the ordinance establishing regulatory - wait a minute.

Mayor - The amendment of the zoning ordinance?

Sitnick - Zoning ordinances for adult establishments and amend

Mayor - You're not going to amend anything, you are posing the motion, so just put whatever you want in there.

Sitnick - Pardon me?

Mayor - You're not amending it, just say what

Sitnick - I would like to move that we adopt the zoning ordinance on adult establishments and include in letter (b), Section 30-7-1 letter P. b. to change 500 foot radius to 1,000 feet and letter c. change 500 foot radius to 1,000 feet.

Mayor - Is there a second?

Peterson - Second.

Mayor - Is there any other comments? Okay, I'll ask the City Clerk at this time to call the roll.

City Clerk Burleson - Councilwoman Field - aye
Councilman McClure - aye
Vice-Mayor Peterson - aye
Councilwoman Sitnick - aye
Councilman Swicegood - aye
Councilman Watts - aye
Mayor Martin - aye

ORDINANCE BOOK NO. 14 - PAGE 372

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF PARKING STUDIES

Mayor Martin said that on January 17, 1995, City Council, at its worksession, discussed the parking studies and requested that this item be placed on this agenda for possible action.

Councilwoman Field moved to direct staff to look into getting options from other agencies (State, Buncombe County, the private sector, and others who will benefit from the parking studies) to fund either fully or jointly fund the parking studies. After that information has been complied, staff is directed to bring it back to the Council for a final decision. This motion was seconded by Councilman Watts and carried unanimously.

IV. NEW BUSINESS:

A. ORDINANCE NO. 2176 - ORDINANCE ESTABLISHING REGULATORY LICENSING REQUIREMENTS FOR ADULT ESTABLISHMENTS AND ENTERTAINERS AT ADULT ESTABLISHMENTS

Mayor Martin - The next item is new business and it is an ordinance relative to amending licensing of adult establishments. And I'll ask Patsy Meldrum to give the staff report.

Ms. Patsy Meldrum, Assistant City Attorney - Mr. Mayor and members of Council, you'll have to pardon me today, I have a little bit of a bad cold and if you can't understand what I'm saying, if you would ask me again, I'll try to say it again and if I can a little more loudly. The ordinance before you is the licensing ordinance for adult establishments and if I could suggest that in consideration of this ordinance, you need to incorporate the reports made by Ms. Cogburn as Planning Director and by Chief Annarino as Police Chief because we need to make the same type of findings before adoption of an ordinance licensing adult establishments as well. The current ordinance that you have only licenses topless entertainers, that is individuals who perform topless. It does not license businesses, it does not license also bookstores and adult motion picture theaters and mini-motion picture theaters. Mini-motion picture theaters are the types of establishments that you go into that have video booths, small booths where you go and see a motion picture or a movie, whereas motion picture, would be a larger theater where you see that.

Councilwoman Sitnick - A question Mr. Mayor? Would that also include what I have been told, only told, is occurring now at one of these establishments where they are taking showers in the back room?

Meldrum - That may be called an adult live entertainment business. Let me look at the definition under the proposal.

Sitnick - And are they paying their water bills?

Vice-Mayor Peterson - Let's ask the Chief of Police. Have they really been doing showers? Do you know.

Police Chief Will Annarino - I'm not aware of that. It's been strictly topless dancing.

Mayor - Okay, do we have any other questions of Ms. Meldrum.

Meldrum - I believe that the definition of adult live entertainment would include that, although I have not seen it either.

Councilwoman Field - Can I ask a question? This is just for curiosity. We require women who dance topless to be licensed, do we require men who dance naked to be licensed?

Meldrum - Not under our present ordinance. Now whether or not any of this type entertainment would be subject to the State's obscenity statutes, that's a matter for the District Attorney's Office to determine.

Field - I'm just thinking about equality, that's all.

Mayor - Men can dance topless right?

City Attorney Slawter - Topless, but Councilwoman Field referred to naked and that wouldn't be allowed.

Field - I have heard that there are some - I suppose they aren't quite naked, but - I don't know because I don't go - but do they have to be licensed to do that?

Meldrum - No, we do not have an ordinance that requires licensing for that type of dance.

Sitnick - It's my understanding that topless dancing is not considered obscene in North Carolina obscenity laws or by the North Carolina Supreme Court. Is that true?

Meldrum - I'm not sure to tell you the truth. Do you know Bill?

Slawter - That's correct. We've looked into that when we were earlier doing some work on the topless ordinance and there is some case law to that effect, including from the North Carolina Supreme Court.

Mayor - Well, we're going to make it a lot more difficult today.

Meldrum - What we're going to be doing is expanding licensing requirements to go beyond only topless entertainers and that's what this proposal does - is to cover any type of entertainer who would perform based on the definition of adult live entertainment that's set forth in the ordinance. And also as I mentioned, adult bookstores and adult motion picture theaters and mini-motion picture theaters. What this ordinance does leave out is massage parlors and the reason for that is that you do have a separate regulatory ordinance requiring licensing of massage parlors and in the zoning amendment that you just considered, that does cover massage parlors with regard to certain types of massage parlors and only their location. So the reason they're not included in the licensing scheme because they're separately licensed in another part of the Code.

Mayor - Okay. Do we have further questions or comments from Council? Do we have any comments from the public regarding this. I'll ask for a motion relative to the adoption.

Meldrum - Mr. Mayor, if I could - there were two corrections that I wanted to make to the ordinance draft that you have before you. On page 4, which talks about the application for licenses, in subparagraph A. 1. and in subparagraph B. where it talks about it's unlawful for you to have a business if your license has been revoked or suspended, we need to also add the language "or has expired" because it could be that the license has not been revoked or suspended, but has expired.

Mayor - In each of those areas?

Meldrum - In each of those places.

Mayor - Okay. That's on page 4, A. 1 and B.

Meldrum - And then on pages 7 and 10, there are references to 18 years of age. And the current ordinance requires that to be 21 years of age. The definition of a minor in North Carolina for certain purposes is 18, that's why the proposal came to you as 18 years of age. However, it's been pointed out to me that in adult establishments that do serve liquor that they would be required to be 21 years of age. So we're going to recommend that we go ahead and make the change to 21 years of age in those places in this proposal.

Peterson - On page 10 you said on B? Or A or C?

Meldrum - On page 10 it would be in A, B and E, under Section 9-17.

Mayor - In other words, in all area that currently indicate 18 should be changed to 21. Correct?

Meldrum - That's right.

Mayor - And that's those you are pointing out on pages 7 and 10. Is there anything else?

Meldrum - No sir. Thank you.

Mayor - Members of Council have been furnished with a copy of the ordinance therefore it will not be read in its entirety. I'll ask for a motion at this time relative to adoption of the ordinance.

Sitnick - Mr. Mayor, I'd like to move that we adopt the ordinance establishing regulatory licensing requirements for adult establishments and entertainers at adult establishments with the mentioned changes by Attorney Meldrum.

Mayor - Do I have a second.

Peterson - Second.

Mayor - Okay we have a second. I'll ask the City Clerk to call the roll.

City Clerk Burleson - Councilwoman Field - aye
Councilman McClure - aye
Vice-Mayor Peterson - aye
Councilwoman Sitnick - aye
Councilman Swicegood - aye
Councilman Watts - aye
Mayor Martin - aye

ORDINANCE BOOK NO. 14 - PAGE 376

B. RESOLUTION NO. 95-5 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL TO INCLUDE REGULATORY LICENSE FEES FOR ADULT ESTABLISHMENTS AND ENTERTAINERS AT ADULT ESTABLISHMENTS

Mayor Martin - The next item is a resolution amending the fees and charges manual relative to the licensing of adult establishments and I'll ask Patsy Meldrum, once again to give the staff report.

Meldrum - The ordinance which you just adopted said that the license fees would be as established in the fees and charges manual as established by the City Council from time to time. So what you need to consider now is the amount of those fees and you had a resolution before you proposing fees. The fees that you would adopt must be based upon the reasonable cost of administration in enforcing the ordinance and in order to determine the amount, I had asked the Finance Department and the Police Department for estimates as to what the administrative costs of enforcing the licensing ordinance would be. I have received those costs and in the resolution before you it states that the Finance Department estimates that the cost is a little over $30 for each applicant for an entertainers license and $46 administrative cost for each business license. The Police Department estimates that it will cost about $109 administrative cost for entertainers license and $400 in administrative cost for each business license. So if you add the estimated administrative costs for entertainers licenses, you get a little over $139 and so the proposal is for that fee to be $150 for the entertainers. If you add the cost of administrative fees for the businesses from the Finance Department and the Police Department, that amounts to about $446 and the fee proposed is $500. And that fee

schedule is attached to your resolution. I should point out that the current ordinance requires a $500 license for topless entertainers and so the effect of this is that those folks will be paying a lower fee. The ordinance which you adopted previously provides that if you've already gotten one of those licenses before this ordinance is amended, that your license is good for 12 months and then you have to come back in and comply with the new ordinance and then you would pay a smaller fee.

Sitnick - Mr. Mayor. It was our understanding that these fees were different. For instance, the entertainer license and renewal fee of $150. Didn't we talk about this being about $2,000 and the adult live entertainment business license and renewal fee being $1,000? And didn't we also talk about the entertainer license being paid by the club owner, or the owner of the establishment?

Meldrum - If you did, I apologize I did not receive that information but as to the amount of the fees, the case law says, and there are a number of cases with a number of different types of fees that cities and counties have adopted. But they have to be reasonably related to our actual administrative costs and since we've gotten our estimates of administrative costs, it would be hard pressed to go beyond that.

Mayor - In other words, that would leave us in an indefensible position.

Meldrum - It would be difficult to defend extra costs unless there is some other evidence that we can find that the costs would be greater.

Peterson - It was my understanding, since I'm on the Fees and Charges Committee, that we can charge what we want to for the dancers and for making it the club owner's responsibility. And I just wanted to ask Mr. Slawter, is that not true?

Slawter - The Council does not have total discretion in setting charges at whatever amount you want to. There has to be some reasonable basis shown for any type of fees imposed by governmental bodies. Otherwise, I mean, it just can't be totally in the Council's discretion. In case law in the area we're talking about relates to the fact that these types of activities and business concerns are treated to be constitutionally protected concerns and that's why a relationship must be shown between the cost of what the City is incurring in whatever cost the City has in licensing and regulating these businesses in relation to the fee that's charged. Otherwise, you're imposing a penalty in effect, the court would say, on their exercising their constitutional rights to do these sorts of

Peterson - Then I would like to ask the City Attorney and staff if the cost of having 65 trips from the Police Department be included in on this cost.

Sitnick - Exactly. And property devaluation costs somebody something. And those are costs that are not in the bottom line but really out to be. It's not just administration.

Slawter - I don't know how the Police Department determined the figures that are included in what they're approximate cost estimate is with regard to these activities, but I would assume the number of police calls make to these establishments are a factor that's considered.

Mayor - Is that correct?

Annarino - No, generally it's the administrative costs. It's the processing the applicant, doing background check and monitoring on a ... basis periodically, but not factoring in any active call for service logs.

Mayor - Can we reasonably expect that to be a part of the cost?

Slawter - Well I'm not sure because I heard Chief Annarino say earlier that the primary need for police response to these establishments is simply because they are bars. And if he said, what I thought he said, which was that they had no more or no less problems in these establishments than they have at routine bars then there is not a basis for imposing a higher fee on them. Because it's not costing us anymore.

Sitnick - In other words you said there were 14 trips since December. That's about six weeks - that's almost a trip a week. Is that what Police make to all bars in this City.

Annarino - That particular bar ... is that it had 345 calls before it turned into a topless bar - it was a teen club.

Councilman McClure - What can the City reasonably charge? We're saying $130 and then we're saying $150 and then we have $400 and then we're saying $500. What's a reasonable charge. I mean, can we say double what your charges are? How do we determine what a reasonable charge and, it seems to me it's a matter of opinion. We say it's tied to it and that's our opinion. And the courts come back and that's their opinion. I know who wins out in that situation, I'm not stupid. But I also know, how do we determine what's reasonable and what's not.

Slawter - Patsy can tell you better than I can what the courts have said on this specific topic, because she's researched it a lot more than I have. But I know there does have to be a reasonable relationship between our costs and what we are charging.

Meldrum - That's about the best explanation I can give you is that they have taken, as Mr. Slawter has explained, due to the constitutional questions about this. The courts have taken a close look, and I believe that some of the cases have said that they've taken a strict judicial view of the fees that have been requested because of the constitutional issues about the First Amendment. And there are some cities who have come forth with, they've been hot beds of promiscuity, they might have had a lot of adult establishments concentrated in one area, some where there have been years of records of information of the actual administrative cost in enforcing the ordinance and also the police costs. But there's another case that says where one city wanted to charge, I believe, a several thousand dollar fee and that was to be for one police officer investigating only three adult establishments in that jurisdiction. And the court said we just don't think that's reasonable. So that's all you can do is to look at all the different cases and see what your best guess would be and my best guess is that the fee needs to be tied in our case because we have limited experience with policing adult establishments to the cost of administrative enforcement.

Councilwoman Field - Patsy, can you say the cost of administration, plus 20%, I mean does the courts give you any guidance for what's reasonable?

Slawter - That's what I was about to address. It's just like the 5% that Julia was talking about. The courts don't, unfortunately they never give us answers to a total situation, when you go in and have a specific case. A court will rule on the specific facts of that case and on the case that Julia is talking about, okay, 5% of the city was still available for this type of business, therefore, that was okay in that case. That doesn't even necessarily tell you that in all cases 5% is okay, much less set an exact benchmark that in all cases 5% is the definite figure you've got to have. And in the cases that Patsy has researched to this extent that I have reviewed those, have dealt with all kinds of different fees . . . the courts have held too high or otherwise have not. They haven't talked about them in terms of a precise cost plus a percentage, so that we'd have a benchmark.

Sitnick - The reason the courts don't set benchmarks and specific guidelines and definites is that it would take away the need for judgment. You wouldn't have to go to court. There'd be rules and regs and that's would it would be - a real clean deal. I would just like to ask one kind of side question. Just for my own understanding. If I wanted to open up a restaurant or the Beaucatcher Movie Theater, or whatever, are the licensing fees for those establishments that have nothing to do with adult entertainment, commensurate with the licensing fees for an adult entertainment establishment? In other words, are the administrative costs, the licensing fees, privilege license, whatever they get, similar? Proportionately speaking?

Meldrum - Those types of license fees are based upon Chapter 105 of the General Statutes and that's a revenue type statute that allows you to do things like ad valorem taxes and so forth and so on. And so those privilege license taxes are included in there. And when the General Assembly adopted those portions of 105 which sets forth those license taxes, they said that here's a list of ones that cities can do and here's a list of ones they cannot do and under the ones they can do - here's how much you can do it up to. And so, the General Assembly has set some guidelines there. It's been awhile since I've looked through all those specific guidelines and there's a number of them if you look at our revenue ordinance, our privilege license ordinance. There might be 50 or so categories. I don't do them everyday, so I'm sorry I can't recall. I would hazard a guess that 40 of those are probably based upon the statutory limit. There might be some that allow some discretion but I would believe that it would still be based upon the reasonable administrative costs and in this case because First Amendment issues are involved. Because what this is doing is licensing that particular kind of business based upon secondary adverse affects, not upon the content of the business. And the revenue ordinance is doing something entirely separate.

Sitnick - So in other words, a bar that wanted to operate and didn't have topless entertainment would probably be similar fees for licensing. Similar licensing fees. What I want to know, I guess, is because this deals with First Amendment rights and constitutionally, are folks who are opening bars with adult entertainment paying less than somebody who is opening up a similar kind of business without that additional (TAPE CHANGE AT THIS POINT)

Meldrum - ... For revenue generation purposes and the other would be this fee which is related to the secondary adverse affects of that type of establishment.

Mayor - Okay, we have another comment.

Field - I was just wondering if we could adopt this with this schedule and have you look into what other communities are charging for similar, come back to us with more information. I would like to get something on the books right now, but give the staff a chance to verify whether or not these are reasonable - how, so we can have more comfort with what is reasonable.

Meldrum - That's fine with me.

Swicegood - What is the consequences if we did set it at $1,000 and somebody came in and challenged you. What's the biggest negative that you have in the City.

Meldrum - There's two possibilities. One is that the entire ordinance would be enjoin, which would mean we could not have the ordinance, due to the invalid fees. The second possibility, well, I guess there's three. The second possibility would be that the court would say only the fees were not permitted and the rest of the ordinance could stand - which they have said in a number of the cases. And the third is that the Court would make a finding that the $1,000 fees were reasonable. But that needs to be based on evidence here today, not on something that we would come up between now and the court case.

Swicegood - You're saying that you can't make it a $1,000 because of the evidence. If you did and somebody comes in and challenges it, the worse that can happen is

Meldrum - That the court would throw out our ordinance. That's the worst case.

Sitnick - But we could adopt another one.

Meldrum - Right. You sure could.

Mayor - What Barbara was saying, why don't we go ahead and adopt these fees and build a case for raising the fees if we wish, which we can do at any time.

Meldrum - Yes, you could do that.

Peterson - I just want to question that. You're saying to charge the license for the entertainer license and renewal $150, we already charge them $500, so are you saying now that we want to go to $150 instead of $500? Why can't we at least leave that still in place?

Meldrum - I'm not aware of how the original $500 was set, but based upon the law that I have reviewed, I believe that the fee needs to be related to the administrative costs and the evidence provided to me by our departments, who are responsible for administering it, only shows enough to warrant $150.

Peterson - Then I would say that we've already set the $500 for license and we haven't had any problems. I would agree that we go ahead and adopt this, but the only problem I have is to keep the entertainer license and renewal at $500.

Sitnick - I would agree.

Peterson - We've already passed it, it's been effective and we haven't had a problem and I would like to keep it that way.

McClure - One other question I have too. Is this per location? Does somebody buy one license and then they can dance, or go to five different locations? Is this per location?

Meldrum - For the entertainers, the ordinance provides that they get one license and permit to move from different locations with no additional fee.

McClure- I thought we had discussed per location.

Sitnick - Yea. And any other business person would have to establish a license on Abbey Road to open a restaurant and then if they wanted to operate a restaurant on Baker Road, they'd have another license.

Mayor - This is not the restaurant, this is the entertainers - we're talking about the cooks.

Sitnick - So in other words the business licenses are per location. It's just the entertainers.

Mayor - Okay. Do we want to retain say, $500 here, plus the other.

Sitnick - Wait a minute. It might be the cooks, but if you talk about doctors, they've got to be licensed and established and pay fees to operate in every hospital they go to.

Mayor - Well, is there any reason why we can't make it per location?

Field - That's interesting. Because as an architect, I can work in any office I want to without having to get another fee. That's interesting. So they make doctors do something different than they do other professionals.

Slawter - If we're tying it into the administrative cost to the City, then the question is whether there is any additional administrative cost by virtue of their moving from one place to another. I don't know if there is or not.

Peterson - We need to keep up with them to make sure that their license is valid and where're they at. We need to keep up with them. To see if they're 21.

McClure - Is there an administrative cost, say per location? How much administrative cost is involved?

Annarino - There really is not. Our concern has always been registering the dancers.

Mayor - So it doesn't matter where they dance?

Annarino - No.

Mayor - Well it's probably best to leave that one alone.

Sitnick - But we were going to raise it to $500, right?

Mayor - Right. Anything else? Okay, let's go on with this. Members of Council have been previously furnished with a copy of the resolution and it will not be read in its entirety. I will ask for a motion relative to adoption of the resolution at this time.

Peterson - I'll make a motion.

Mayor - Okay. You'll have to state specifically how you want to change that.

Peterson - I will make a motion that we adopt this with the change be the entertainer license and renewal fee be instead of $150 to stay at $500.

Sitnick - Second.

Mayor - Any further comments, questions? All in favor say aye. All opposed? (Motion carried unanimously.)

Rev. Wendell Runion thanked the Council and City staff for all work done on this ordinance.

RESOLUTION BOOK NO. 22 - PAGE 174

C. ORDINANCE NO. 2177 - ORDINANCE AMENDING ARTICLE II OF CHAPTER 13 (ALARM SYSTEMS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Police Chief Will Annarino said that a recent analysis of false alarm responses indicates that 86.5% of reported alarm are false in nature. In fact, only 1.1% of all reported alarms were due to burglary or robbery. Police response to "false alarms" approximates $38,000 annually in officer salary (assuming a 15 minute response for two officers).

There are currently 1,100 registered alarm users who have voluntarily registered with the Asheville Police Department. There are, at present, an undetermined number not registered.

This revision would include (1) requiring every alarm user, both residential and commercial, who installs or causes to be installed, an alarm system for which police respond is expected to obtain an alarm user permit; and (2) a civil process fee will be set forth in the Fees and Charges Manual shall be instituted to ensure compliance and false alarm reduction.

An ordinance review and implementation meeting will be held with all security and monitoring companies providing alarm services to City residents.

Chief Annarino responded to Council inquiries about how businesses would be monitored and the reasoning behind the fines.

Councilwoman Sitnick thanked Vice-Mayor Peterson for actively pursing this very important issue.

Upon inquiry of Councilman McClure, Chief Annarino explained why banks and government buildings won't be affected.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2177. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2177 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 389

D. RESOLUTION NO. 95-6 - RESOLUTION AMENDING THE FEES AND CHARGES MANUAL RELATIVE TO POLICE ALARMS

Police Chief Will Annarino said that this resolution will set the registration and penalty fees to ensure compliance with the new alarm system ordinance. Those fees are as follows:

Alarm permit application fee	$25.00
Failure to obtain an alarm permit	
A. Failure to obtain permit	$100.00; and
B. Response to a false alarm without a permit	$35.00 per violation
Registered Alarm - False alarms in excess of three in a consecutive one-month period	$10.00 per violation
Local Audible Alarms - Failure to reset within 15 minutes	$10.00 per violation

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-6. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 176

E. MOTION DIRECTING THE CITY MANAGER TO SUBMIT A LETTER TO NC DOT RELATIVE TO POSSIBLE PARTICIPATION IN SIDEWALK CONSTRUCTION FOR THE SWEETEN CREEK ROAD WIDENING PROJECT

Mr. Ron Fuller, Transportation Planner, said that NC DOT has expressed a willingness to participate with the City of Asheville in constructing sidewalks along one side (the east) of the widening project associated with Sweeten Creek Road.

The scope of the project goes from Rock Hill Road to I-40 and is approximately 1.5 miles in length. This will be a five-lane curb and gutter facility that will tie into the new interchange at I-40. The remaining portion of Sweeten Creek Road south to US 25 is also on the Transportation Improvement Plan ("TIP") but remains unfunded. Presently, sidewalks do not exist on this length of roadway.

NC DOT has stated that this would be a shared venture. The State would provide 60% with the City picking up the remaining 40%, or approximately $25,000. This is the first local example of NC DOT's newly adopted sidewalk and pedestrian policy in action. Historically, they have replaced sidewalks only where they were originally located. Although this portion of sidewalk is relatively short and the appearance may be that it does not go anywhere, the possibility of getting this first leg in is important.

The construction date for this project is 1998. If the City is willing to participate, then that should give ample time to program needed funds (in phases if necessary) into the Capital Improvement Program. NC DOT said that it would not be comfortable in holding the City to a dollar amount. However, they had no problem in the City's contributing 40% and they were pretty confident that their estimates are reasonable because it doesn't include any additional right-of-way.

Although it is unclear where the actual funding would come from, the Planning Department's recommendation is to submit a letter to NC DOT expressing a willingness to participate. As TIP funding becomes available for the remaining portion of the project, sidewalks can also be considered at that time with the hopes of creating pedestrian facilities along a major roadway.

Councilwoman Field said that the Transportation Advisory Committee recently looked at this request and unanimously recommended that the City pursue sidewalks. Even though this stretch may not be as widely traveled with pedestrians, she felt that as we put sidewalks in, we will find them used. She urged Council to vote in favor of this stating that we are not committing anything right now, only telling NC DOT that we have a willingness to do this.

Councilwoman Sitnick supported Councilwoman Field's statement about the need for pedestrian access with more and more businesses coming in. I think that some kind of pedestrian provision would be wonderful. However, I don't know that we absolutely have to look at sidewalks. The City of Chapel Hill has done a really good job making the City more pedestrian friendly using different kinds of materials for pedestrian ways and I would like to ask that you look into the possibility of a different kind of pedestrian way that would not cost as much money. It's my understanding that the State will share in sidewalk costs if the City can demonstrate a need for them. I would like to add to the request that we look towards not necessarily spending it on expensive curbs and gutters and sidewalks, but rather some kind of material that is ADA approved and maybe pervious, road bond or something like that. I don't know what Chapel Hill is using, but I do recall reading an article about a real creative and less expensive way of providing pedestrian access.

City Manager Westbrook said that the letter would be an intent to spend 40% but we probably would have to use DOT standards and he wasn't sure how much latitude we would have. He reiterated that we are not committing any money at this time, only stating an intent to participate. In 1998, when the project is scheduled to begin, and we have some higher priorities, we don't have to put our 40% into it and the State could spend their money elsewhere.

Councilwoman Field moved to instruct the City Manager to write a letter to NC DOT expressing a willingness to participate in constructing

sidewalks along one side (the east) of the widening project associated with Sweeten Creek Road, with the City's participation being 40%. This motion was seconded by Councilman Watts and carried unanimously.

F. ORDINANCE NO. 2178 - ORDINANCE REDUCING THE SPEED ON UNAKA AVENUE, LAUREL LOOP, ROSEWOOD AVENUE, DORCHESTER AVENUE, BARNARD AVENUE AND LEE AVENUE TO 20 MILES PER HOUR; AND REDUCING THE SPEED LIMIT ON JOYNER AVENUE, CLINTON AVENUE, WILMINGTON ROAD AND EDGEWOOD ROAD FROM KIMBERLY AVENUE TO UNIVERSITY BOULEVARD TO 25 MILES PER HOUR

Mr. Jim Ewing, Director of Public Works, said that the Traffic Engineer has performed the necessary traffic analyses associated with the following locations and recommends the following speed limits be changed: Unaka Avenue, Laurel Loop, Rosewood Avenue, Dorchester Avenue, Barnard Avenue and Lee Avenue to 20 miles per hour; and Joyner Avenue, Clinton Avenue, Wilmington Avenue and Edgewood Road from Kimberly Avenue to University Boulevard to 25 miles per hour.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2178. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2178 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 393

G. ORDINANCE NO. 2179 - BUDGET AMENDMENT TO CLOSE OUT STREET AND SIDEWALK PROJECT NO. 5

Audit/Budget Director Bob Wurst said that the City of Asheville agreed to provide the Housing Authority with $126,000 from the Street and Sidewalk fund for additional infrastructure improvements in the Montford community. This budget amendment, in the amount of $126,000, follows that agreement and allows us to close out that payment.

At the January 10, 1995, City Council meeting, Mr. H. K. Edgerton had concern over closing out the project when he had a lien in the amount of $126,000 on that project. After investigation, the lien was against Street and Sidewalk Project No. 6, not No. 5.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2179. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2179 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 394

H. ORDINANCE NO. 2180 - BUDGET AMENDMENT RELATIVE TO CONSULTANT'S REVIEW OF THE UNIFIED DEVELOPMENT ORDINANCE

Mr. Bob Wurst, Audit/Budget Director, said that City Council has requested consulting assistance with the Unified Development Ordinance

process. No funding was provided in the budget for such service. This action appropriates $15,000 to the Planning Department for said services. Funding for the appropriation is from the City's undesignated General Fund - Fund Balance.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2180. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2180 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 396

I. RESOLUTION NO. 95-7 - RESOLUTION ESTABLISHING THE UNIFIED DEVELOPMENT ORDINANCE STEERING COMMITTEE

Ms. Julia Cogburn, Planning Director, said that staff is requesting, based on a suggestion from Bill Farris, consultant on the Unified Development Ordinance ("UDO") process, that a steering committee be named by Council to work with Mr. Farris on his review of the draft UDO.

In his proposal to City Council for review of the draft UDO, Mr. Farris recommended the appointment of a UDO Steering Committee to work with him on this review. The appointment of a Steering Committee is proposed in the language found in the consulting contract.

Mr. Farris has suggested a committee comprised of one City Council member to serve as Committee chair, one Planning and Zoning Commission member, and seven citizen members representing a broad cross section of community interests. As a review of the UDO Subcommittee work is to be a central product of the study, former subcommittee members should be included. It is proposed that this Steering Committee meet with the consultant approximately four times.

Since Mr. Farris would like to meet with the Steering Committee as soon as possible, it is his request that the appoints be made as quickly as possible by the Council.

It was the consensus of Council to appoint Councilman McClure to serve as Committee chair.

When Councilwoman Sitnick stated that she would like to be appointed to the committee as well, it was the consensus of Council that she, as well as other interested Council members, attend the meetings, but not actually be appointed to the Committee.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-7. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 177

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 10, 1995**

B. **RESOLUTION NO. 95-8 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 1 TO FAA GRANT AGREEMENT NO. 3-37-0005-15**

Summary: The City and County are required to be cosponsors of FAA grant agreements received by the Airport Authority. The FAA has requested an amendment to a 1992 grant agreement providing for the deletion of a portion of the project identified as "rehabilitate MITL". There are no City funds involved in this amendment.

RESOLUTION BOOK NO. 22 - PAGE 178

C. **RESOLUTION NO. 95-9 - RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT TO THE JUNIOR LEAGUE OF ASHEVILLE FOR ASHEVILLE'S URBAN TRAIL - STATION 26**

Summary: The Urban Trail Committee is seeing approval to submit a grant proposal to the Junior League of Asheville in the amount of $1,000. The grant would engage an African-American artist who will prepare a master plan for artist interpretation of the history of "The Block" near the corner of Eagle and Market Streets. The grant will also provide a small stipend for the YMI Cultural Center to co-sponsor with the Urban Trail an oral history event in order to gather research data about the history of "The Block."

RESOLUTION BOOK NO. 22 - PAGE 179

D. **RESOLUTION NO. 95-10 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY**

Summary: The report identifies City-owned property disposal for the Risk Management, Water Resources and Police Departments during the period July 1, 1994, through December 31, 1994.

RESOLUTION BOOK NO. 22 - PAGE 180

E. **RESOLUTION NO. 95-11 - RESOLUTION ACCEPTING THE DONATION OF A 1976 WINNEBAGO FROM THE HOUSING AUTHORITY FOR CRIME AND DRUG PREVENTION ACTIVITIES IN THE PUBLIC HOUSING DEVELOPMENTS**

Summary: The Housing Authority has purchased, for the Asheville Police Department, a Winnebago van for use as a Mobile Resource Center to be utilized by the Asheville Police Department ARGUS unit in public housing community policing endeavors. The van has been evaluated by Fleet Management and has been declared operational and in good condition. The van is valued at approximately $10,000.

RESOLUTION BOOK NO. 22 - PAGE 182

F. **RESOLUTION NO. 95-12 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE LAND-OF-SKY REGIONAL COUNCIL RELATIVE TO TRANSPORTATION PLANNING**

Summary: The Land of Sky Regional Council has submitted their proposed contract for fiscal year 1994-95. The Council has been assisting the City of Asheville with MPO Planning for a number of years. The contract period runs from July 1, 1994, to June 30, 1995. The

contract amount is $20,000, however, the State reimburses the City 80% of all costs. Therefore, the cost to the City will be $4,000. The services provided are necessary to complete the Planning Work Program. Problems unrelated to the contract have prevented us from completing the process prior to this date.

RESOLUTION BOOK NO. 22 - PAGE 183

G. RESOLUTION NO. 95-13 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH WILLIAM B. FARRIS FOR CONSULTANT WORK ON THE UNIFIED DEVELOPMENT ORDINANCE

Summary: At Council's request, staff has drafted a contract for consulting services with William B. Farris. This contract is for review of the Unified Development Ordinance. The specifics in the contract were arrived at during consultations between staff and the consultant. The contract is for a total of $15,000 which includes travel expenses.

RESOLUTION BOOK NO. 22 - PAGE 184

H. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 7, 1995, AT 7:00 P.M., IN THE THOMAS WOLFE AUDITORIUM AT THE ASHEVILLE CIVIC CENTER TO AMEND THE SIGN ORDINANCE REGARDING NON-CONFORMING SIGNS

I. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 7, 1995, AT 4:00 P.M. IN THE THOMAS WOLFE AUDITORIUM AT THE ASHEVILLE CIVIC CENTER AMENDING THE ZONING ORDINANCE TO REZONE A PORTION OF A LOT NEAR THE CORNER OF MARTIN LUTHER KING JR. DRIVE AND HAZZARD STREET FROM R-3 RESIDENTIAL TO CG COMMERCIAL GENERAL

J. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 21, 1995, TO AMEND THE ZONING ORDINANCE RELATIVE TO THE DEFINITION OF "SIGN"

K. MOTION SETTING A PUBLIC HEARING ON FEBRUARY 21, 1995, TO AMEND THE ZONING ORDINANCE TO ESTABLISH STANDARDS FOR THE REPLACEMENT OF EXISTING MANUFACTURED HOMES IN ALL ZONING DISTRICTS

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

VI. OTHER BUSINESS:

A. CITY-OWNED PROPERTY

Mayor Martin moved to direct the City Manager to survey all City-owned marketable property and recommend to the Council the highest and best use of the property. This motion was seconded by Councilman McClure and carried unanimously.

Councilman Swicegood felt that perhaps the building which houses the City Development Department might be sold or leased. Perhaps that Department could be moved back to City Hall or located in West Asheville.

Vice-Mayor Peterson felt we needed to be looking at locations for possible ballfields.

Councilwoman Sitnick suggested that if any space was found not suitable for marketability and/or development (like vacant tax lots)

that the Council consider possible community garden spaces o community green spaces.

Councilman McClure questioned how much space is actually available in City Hall.

B. STORMWATER USER FEE COMMITTEE

Upon inquiry of Councilwoman Sitnick, Mayor Martin said that he has not yet made his decision about the vacancy on the Stormwater User Fee Committee.

C. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of December 6, 1994 - January 11, 1995: John C. Cain; Genevieve Williams (Streets) and Rhonda Robinson (Streets).

He also stated that the following claims were received during the week of December 12, 1994 - January 18, 1995: BellSouth Telephone (Water), Shirley Owenby (Streets), Deloris Reid (Sanitation), CP&L (Water), James Williams (Water), Loretta Terry (Fire), Mary Gudger; Carol Davis (Water), BellSouth (Water), and BellSouth (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

At 6:30 p.m., Mayor Martin announced a 30-minute recess.

F. PUBLIC HEARING RELATIVE TO AN ELECTED SCHOOL BOARD

Mayor Martin said that on October 11, 1994, City Council held a public hearing on an elected school board versus an appointed school board. On November 8, 1994, City Council requested an additional hearing.

Mayor Martin opened the public hearing at 7:00 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. George Watt, resident of West Asheville, spoke in support of keeping an elected School Board since the system works well. He felt Council can balance the School Board racially and geographically.

Mr. Joe Bly, representing 2,000 school children who will not graduate from Asheville High, felt that fair representation needed to be on the School Board. He said that three current members have a 28804 zip code and they possibly might not represent the children that live in a 28801 area. He ultimately recommended an elected School Board.

Mr. David Hiller, Chairman of the Asheville School Board, spoke in favor of an appointed School Board. City Council can balance the Board by race, gender and by geographical location. He stated that the Board represents all students in all areas and felt an appointed system can allow the Board to focus on education and not politics. He felt the process works well and Council should continue with an appointed Board.

Ms. Dottie Stickney spoke in favor of an elected School Board stating that an overwhelming majority of School Boards in this country are elected.

Ms. Marsha Bate had no problem with an appointed School Board but would like to see it more accountable.

Ms. Althea Gough felt an appointed School Board would be better for balanced representation. She felt the Board needed to listen and talk to the people.

Mr. Bob Brown spoke in favor of an elected School Board for the accountability aspect. He also questioned a rumor about the School Board buying the building it is currently leasing.

Ms. Susan Fisher, Asheville native and member of the Asheville School Board since March 1993, presented a statement to Council stating that she has strong ties with the League of Women Voters and realizes the League actively supports a position that encourages the appointment of women and minorities to boards and commissions. With that in mind, she presented three instances where election of school board members could prove detrimental to progressive board representation: (1) in any election, money is involved and elected people might be influenced by large money contributors by conforming to that particular family's value; (2) in a school system Asheville's size, an elected board runs the risk of eliminating promising African American candidates; and, (3) appointed boards has an autonomy that attracts better qualified superintendent, teaching and administrative candidates to their school systems. She also spoke favorably at the open process for the appointments of school board members.

Mr. Bob Smith said that since there is no perfect system, Council should look to see if this system is working. Asheville's works and we should continue with the appointed Board. His main issues, however, are accountability and representation.

Dr. Erby Oglesby, Vice-Chairman of the Asheville School Board, spoke in favor of an appointed Board. He responded to comments made earlier from Mr. Brown about the School Board purchasing the building they were housed. He said the current School Board members represent all the children - not only in the areas where the Board member lives!

Ms. Hazel Turner, member of the Asheville School Board, spoke in support of an appointed Board. She stressed that the Board members are available for all students, no matter what area they live in.

Councilman Swicegood stated that if the Council decided to go to an elected School Board, Council could still choose to have two appointed members, thus eliminating the problem of black representation.

Ms. Carol Matthews, member of the Asheville School Board, 15 Lynwood Road, strongly supported an appointed school board. It gives the City Council the opportunity to appointed a balanced, diversed group. She felt that any citizen could request to be on the school board with no financial cost involved, unlike the election process.

Dr. Wayne Trogdon, Superintendent of the Asheville City Schools, also addressed the rumor surrounding the School Board wishing to purchase the building it is now leasing - which rumor is not correct.

He spoke in favor of an appointed Board stating that the Board is responsible to the community and makes it's decisions based on what is the best for the children.

A teacher from the Asheville City Schools spoke in favor of an appointed Board and was very impressed with the Board members and their interest for all children.

Mr. Tony Ponder preferred a partisan elected School Board.

Ms. Carol Collins spoke in favor of an elected School Board which would, among other things, ensure accountability.

Mr. Stan Morgan, in central administration in the Asheville City School system, felt that appointed boards are much more effective and are usually more capable of putting the best interest of the community and the children first.

Ms. Wanda Boyd, resident on River Ridge Drive, spoke in support of an appointed School Board. She said that she has worked with an elected School Board in the past and felt an appointed Board was the way Council should continue.

Ms. Rosaline Fetty, representing the League of Women Voters, stated that the League continues to support an elected School Board.

Councilwoman Sitnick said that there were 15 people at the last School Board public hearing and 30 here today. She wondered what the Council could do to stir up interest for education in general.

At the request of Mayor Martin, City Clerk Burleson said that notices were sent to the present School Board members, the City Clerk's office of media/interested persons list (approximately 30 names), principals at all schools to be posted, all PTA/PTO presents and newsletter editors, Administrative Director of the Asheville City Schools Foundation, Superintendent Dr. Wayne Trogdon's Office, advertised on January 13 and January 20 in the legal ad section of the Asheville Citizen-Times, advertised Sunday, January 15, 1995, in the retail section of the Asheville Citizen-Times, and mentioned twice on ARNIE automated telephone system.

Councilman Watts felt sure that this Council would consider all qualified black candidates for this very important Board.

Mayor Martin thanked all who participated in this public hearing.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:17 p.m.

_____ _____

CITY CLERK MAYOR

Tuesday - January 31, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (death in family)

APPROVAL OF SCHOOL BOARD SCHEDULE AND NAMING OF INTERVIEWEES BY COUNCIL

It was the consensus of Council to have a preliminary interview of the following people for the two vacancies on the Asheville School Board: Hugh McCullom, Roy Harris, James Baten, Brian Weinkle, Wayne Purcell, Larry Wilson, Robert Dungan, Carol Collins, Dorothy Stickney, Linda Eubanks, H.K. Edgerton, Susan Clay and Marsha Bate. Said interviews will be in Meeting Room No. 1 of the Asheville Civic Center beginning at 1:50 p.m. on February 14, 1995.

AMENDMENT TO ZONING ORDINANCE - NON-CONFORMING SIGNS

Ms. Julia Cogburn briefed Council by saying that on December 7, 1994, the Planning and Zoning Commission reviewed and approved with a vote of 4-3 a proposed wording amendment to the Zoning Ordinance regarding nonconforming signs. This wording amendment was prepared by staff at the request of the Asheville City Council. The wording amendment grandfathers in all nonconforming signs which comply with the regulation of the City's Sign Ordinance which was adopted in October of 1977. Currently, these signs are subject to coming into compliance ("amortization") in 1997.

The draft approved by the Planning and Zoning Commission also recommends that language be added which allows for repainting, changing the message, or changing the panels on all nonconforming signs. Currently, signs must come into compliance when such changes or alterations are made.

The draft ordinance would grandfather 96 off-premise signs and 733 on-premise establishments.

Discussion surrounded the out-of-date 1990 survey information.

Ms. Cogburn stated that she would try to update the information on off-premise signs and let Council know how many of those were billboards.

Ms. Cogburn stated that the zoning ordinance currently allows standards for an historical sign designation.

At the request of Vice-Mayor Peterson, Ms. Cogburn said that she would poll other cities to see how they regulate signs on bus weather facilities. She would then initiate the process of amending the zoning ordinance to allow the City to proceed in that direction.

REPORT TO COUNCIL ON CONSULTANTS, ENGINEERS AND PROFESSIONALS

Audit/Budget Director gave an extensive report on why the City uses consultants, why and when we don't use City staff and how we select consultants, noting that the City does pay special attention to minority consultants.

City Manager Westbrook recommended the following to keep Council more informed when consultants are necessary: He would provide a list of all contracts entered into on a quarterly basis and the reasons why a consultant is necessary; any matter that exceeds $25,000 will come to Council (as it has in the past) with a check-off list (why city staff was not used, mandated, whether there is any local citizens group that could do the work, etc.); and bring issues to Council at an earlier date when consulting services might be required.

Councilman McClure asked that any issue on financing be brought to the Council with the procedural steps.

Discussion surrounded at what amount the City Manager should be authorized to execute a contract without having to take formal Council action (current policy is $25,000).

City Manager was directed to give Council his recommendations.

Water Resources Director Mike Holcombe briefed the Council on the procedure he uses in contracting with consultants for the Asheville-Buncombe Water Authority, noting that the Authority has authorized him to execute a contract up to $30,000.

TRANSIT FACILITY/PRITCHARD PARK PLANNING SEQUENCE

City staff discussed with Council the conflict with neighboring property owners concerning the Transit Authority's proposed bus facility on Aston Street and the adverse affects on the planning and execution of the bus facility and the redevelopment of Pritchard Park.

Mr. Harold Talbert, property owner in the area, spoke to Council of his concern with the moving of the facility to Aston Street.

At 5:15 Vice-Mayor Peterson moved to go into closed session to discuss a legal matter. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:40 p.m., Vice-Mayor Peterson moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

It was the consensus of Council to authorize the City Manager to proceed with schematic designs of the Transit Facility and suspend further planning on Pritchard Park. It was the direction of Council for City staff to work with the property owners in the area. The schematic designs are to be brought back to the Council in approximately 30 days.

RECYCLING OPTIONS AND RECOMMENDATIONS

Ms. Vicki Heidinger, Executive Assistant in the Audit/Budget Division, briefed the Council on the County's actions regarding closing their recycling drop centers. At the County Commission meeting being held that night, the Commissioners might vote to keep two centers open in the City limits - one in North Asheville and one on Tunnel Road at the Wal-mart.

Since much of the south will be without a center, it was the recommendation of Ms. Heidinger and the consensus of Council to locate one center in that area. However, if the Commissioners do not agree to keep two centers open, staff was directed to prepare a budget amendment, in the amount of $22,500 that will support ABC Recycling's "low bid"

proposal for two additional blue building recycling drop centers over the next six months, and providing some funding to advertise the locations. The City sponsored centers shall be in each main area of the City.

OTHER - YOUTH UPDATE

Councilwoman Sitnick updated Council on her activities for a centrally-located, safe hang-out spot.

Mr. Ben Wax and Mr. Marshall Logan, representatives from the Parks and Recreation Department, explained to Council their planned approach of traveling to the schools and listening to exactly what the youth want. Then an adult forum would be held and the brainstorming would begin with the many representatives from several different organizations and interested individuals in the community.

WORKSESSION AGENDA FOR FEBRUARY 14, 1995

Council directed the City Manager to start obtaining specific information on the following topics and then place these topics on upcoming worksessions: Festivals, CDBG funds, fees and charges update, economic development, sidewalks, pride in our City, City Operations Advisory Commission, moving forward with UNC-A interns, implementation of EZ/EC programs, Adopt a Street Program, filling vacancy on Stormwater User Fee Committee, any interest in sponsorship of Javelin thrower Olympic Hopeful Marilyn Senz, licensing of tree trimmers, increase amount of appeals fee to the Board of Adjustment from $25 to $100, open discussion items left over from the retreat, Stormwater, MSD policies, 10 highest complaints in Inspections Division and Ways to Resolve them, Broadway update, Water Agreement and innovative affordable housing strategies.

It was the consensus of Council to place the items dealing with renegotiation of a franchise agreement with TCI Cablevision back onto the next formal meeting. The items would contain a budget amendment in the amount of $75,000 for a consultant and a resolution authorizing the City Manager to execute an agreement with the consultant firm.

ADJOURNMENT

Mayor Martin adjourned the worksession at 7:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - February 7, 1995 - 4:00 p.m.
Asheville Civic Center - Thomas Wolfe Auditorium

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION BY HOUSING AUTHORITY FOR PAYMENT IN LIEU OF TAXES

Ms. Annette Coleman, Chairman of the Housing Authority of the City of Asheville, presented Council with a check payment in lieu of taxes in the amount of $61,327.83 which represents a total dating back to 1994 of $991,176.

B. RESOLUTION NO. 95-14 - RESOLUTION TO RETIRING EMPLOYEE ANTHONY K. CAPPS

City Manager Westbrook read the resolution stating that Anthony K. Capps has been an employee for 16 years and has requested retirement from his position as Firefighter Senior in the Fire Department. He expressed City Council's appreciation to Tony for his service to the City of Asheville and its citizens.

Resolution No. 95-14 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 185

C. RECOGNITION OF CITY EMPLOYEES AND OUTSIDE AGENCIES REGARDING EMERGENCY RESPONSE AND RESCUE EFFORTS IN CONNECTION WITH FLASH FLOOD OF JANUARY 14-15, 1995

Mayor Martin read the Certificates honoring Asheville and Buncombe County emergency response forces who were pushed to their limits by flash flooding following heavy rains in Western North Carolina on January 14-15, 1995.

On the morning of January 14, 1995, heavy rains began that resulted in the heaviest, most damaging flash flooding in Asheville in more than a decade. Roads and other public works were damaged, and lives were in direct danger as a result of this flooding.

Literally hundreds of emergency responders gathered to deal with these emergencies. Those responders included firefighters, police officers, rescue squad members, paramedics and public works and water resources employees, among others.

The most dramatic incident - the rescue of motorist Johnny Ivester, which triggered the subsequent rescue of Skyland firefighters

Buddy Thompson, Rick Wood, Ronny Mundy and Dennis Presley - involved more than 125 rescuers, and lasted from 8:52 that Saturday evening until well after midnight Sunday morning. Wood and Thompson were carried more than six miles by a fast flowing flood swollen French Broad River before they were rescued less than a mile upstream of the old Asheville Power Company dam.

As a result of those efforts, there were no lives lost and no serious injuries from the flash floods in Asheville.

He then presented Certificates of Appreciation and Honor to the Asheville Police Department, Asheville Public Works Department, Asheville Water Resources Department, Asheville Fire Department, Sheriff Bobby Medford and his deputies, Bill Cecil and his Biltmore Estate staff, Jeff Cook, Dan O'Kelley, John Butler, John Rukavina, Thomas Freck, Rodney Metcalf, Ronnie Davis, Robin Lyles, Reiley Bennett, Bill Saunders, Barbara Sawyer, Buddy Duckett, Skip Myers, Gene Gladden, Asheville Area Rescue Squad, Woodfin Fire Department, Weaverville Fire Department, French Broad Fire Department, Reems Creek Fire Department, West Buncombe Fire Department, Skyland Fire Department, Buncombe County EMS, Dennis Presley, Buddy Thompson, Ronny Mundy, Rick Wood, Dennis Ball, Shawn Haynes, Chris Morgan, John Riesebeck, and Jim Shope.

D. PROCLAMATION PROCLAIMING FEBRUARY 5-11, 1995, AS "BURN AWARENESS WEEK"

Mayor Martin proclaimed February 5-11, 1995, as "Burn Awareness Week" in the City of Asheville and presented the proclamation to Mr. Harold Holbert from the Land-of-Sky Shriners Club.

E. PROCLAMATION PROCLAIMING FEBRUARY 1995 AS "BLACK HISTORY MONTH"

Councilman Watts read the proclamation proclaiming February 1995 as "Black History Month" in the City of Asheville.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE SUBDIVISION REGULATIONS RELATIVE TO APPROVAL OF A PRELIMINARY PLAT

ORDINANCE NO. 2181 - ORDINANCE AMENDING SECTION 17-46 OF THE CODE OF ORDINANCES (SUBDIVISION REGULATIONS)

Mayor Martin opened the public hearing at 4:43 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn said that this amendment would provide for appeal to the City Council when the Planning and Zoning Commission denies approval of a preliminary plat for a subdivision.

The Planning and Zoning Commission and Planning staff recommend adoption of this ordinance.

Mayor Martin closed the public hearing at 4:44 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2181. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2181 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 1

B. PUBLIC HEARING TO AMEND THE ZONING ORDINANCE TO PROHIBIT PARKING OF LARGE MOTOR VEHICLES IN RESIDENTIAL DISTRICTS

ORDINANCE NO. 2182 - ORDINANCE AMENDING SECTION 30-3-11 OF APPENDIX A OF THE CODE OF ORDINANCES (REGULATIONS OF OFF-STREET PARKING AND LOADING)

Mayor Martin opened the public hearing at 4:45 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that this ordinance would prohibit parking of large motor vehicles, such as, but not limited to truck tractors, trucks, semitrailers and buses, on property located in a residential district.

Deliveries and services provided by large motor vehicles are permitted. The ordinance allows recreational vehicles, subject to existing standards.

This ordinance was previously recommended by the Planning and Zoning Commission ("Commission") after an initial public hearing on September 1, 1993. It was considered by the City Council on September 28, 1993, and tabled with the request that the City Manager report on how other cities in North Carolina regulate trucks in residential areas, and why recreational vehicles are permitted by the proposed ordinance.

On January 4, 1995, the Commission held its second public hearing and again recommended its adoption unanimously.

Ms. Mary Jo Brezny, resident of Montford area, urged Council to pass this ordinance.

Mr. Gordon Lucks, 174 Montford Avenue, felt that passing this ordinance would be an infringement on his rights as a property owner to determine what he can or cannot park on his property.

Mayor Martin closed the public hearing at 4:52 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2182. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2182 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 3

C. **PUBLIC HEARING TO ZONE THE WEST II ANNEXATION AREA AND TWO EXTRA-TERRITORIAL JURISDICTION LOTS**

- **ORDINANCE NO. 2183 - ORDINANCE PROVIDING FOR THE ZONING IN THE WEST II ANNEXATION AREA**

- **ORDINANCE NO. 2184 - ORDINANCE AMENDING SECTION 30-1-3 OF THE CODE OF ORDINANCES (TERRITORIAL AND EXTRATERRITORIAL JURISDICTION ZONING ORDINANCE)**

Mayor Martin opened the public hearing at 4:52 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Patty Joyce, Senior Planner, said that this ordinance would establish zoning for the approximate 600 acre area of the West II annexation (effective August 31, 1994) not previously zoned. The area under consideration lies between I-40 and US 19-23 and is bordered on the west side by Moody Avenue and east side by Asbury Road. It includes the Woodside Hills Subdivision, BASF, Westridge Market Place and several residential areas.

A community meeting to discuss the zoning proposal was held on November 21, 1994. Input from that meeting and workshops held by the Planning and Zoning Commission ("Commission") was incorporated into the staff recommendations. The Commission held a public hearing to discuss the West II area zoning on January 4, 1995. Notice of the Commission meeting was mailed to 516 property owners and there were no comments made. The Commission voted unanimously to approve the Planning staff recommendations.

The second ordinance would extend the extraterritorial jurisdiction to include the two lots which are adjacent to the West II annexation area.

Councilwoman Sitnick was amazed at the over $2,600 it cost to print the notice to the public in the Citizen-Times. She encouraged the Planning staff to look into other ways, that are within the legal bounds, for us to advertise this kind of zoning in an annexed area.

City Attorney Slawter said that the purpose for identifying each lot in this legal notice was to make all property owners aware what their lots were being zoned. He said a map could be used, but it is quite difficult in delineating the property lines, and a map for this particular area would have had to be at least a full page.

Mayor Martin closed the public hearing at 4:58 p.m.

Mayor Martin said that members of Council have previously received copies of the ordinances and they would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2183. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2183 passed on its first and final reading.

Councilwoman Field moved for the adoption of Ordinance No. 2184. This motion was seconded by Councilman Watts.

On a roll call vote of 7-0, Ordinance No. 2184 passed on its first and final reading.

ORDINANCE BOOK NO. 14 - PAGE 18

D. PUBLIC HEARING TO ZONE ONE LOT ON ROCKY RIDGE ROAD FROM CH COMMERCIAL HIGHWAY

ORDINANCE NO. 2185 - ORDINANCE TO ZONE ON LOT ON ROCKY RIDGE ROAD

Mayor Martin opened the public hearing at 5:00 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that this ordinance would establish zoning for one lot (PIN No. 9626.08-78-7720) within the Brevard Road annexation area. Although an ordinance was adopted by the City Council on December 20, 1994, zoning the rest of the approximately 300 acre annexation area, this lot was inadvertently excluded from the public notice maps. The proposed zoning for this property is Commercial Highway.

On January 4, 1995, the Planning and Zoning Commission ("Commission") held a public hearing. Notice of the public hearing was mailed to 28 surrounding property owners and one neighboring property owner spoke with concern that commercial development may devalue the residential properties along Rocky Ridge Road to the west of the site.

The Commission and the Planning staff recommend that this property be zoned Commercial Highway.

Mayor Martin closed the public hearing at 5:01 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2185. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 7-0, Ordinance No. 2185 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 20

E. PUBLIC HEARING TO REZONE A PORTION OF A LOT NEAR THE CORNER OF MARTIN LUTHER KING JR. DRIVE AND HAZZARD STREET FROM R-3 RESIDENTIAL DISTRICT TO CG COMMERCIAL GENERAL

Mayor Martin opened the public hearing at 5:02 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, reported that the Planning Department initiated a request to rezone a portion of a lot on Martin

Luther King Jr. Drive from R-3 Residential to Commercial General (hereinafter "CG").

On December 21, 1994, a notice was sent by the Planning Department to 78 property owners making them aware of the rezoning request and the public hearing.

On January 4, 1995, a public hearing was held by the Planning and Zoning Commission ("Commission") and approximately six residents spoke, all who opposed the rezoning for the following reasons:

1. Afraid of impact on neighborhood of commercial encroachment.
2. Claims that ulterior motives were involved in the original rezoning request.
3. Concerned that existing driveway access through subject property to an adjacent house will be cut off.
4. Residents want more input into what is built in the neighborhood.

The Commission initially reviewed the rezoning request at their January 4 meeting and tabled it in order for staff to take the following actions:

1. Submit copy of East End/Valley Street Redevelopment Plan to members of the Commission for their review.
2. Organize an informational meeting in the neighborhood to discuss the rezoning request and a proposed medical office for the site.
3. Collect information regarding covenants and development restrictions on the property.
4. Find out the legal status of the existing driveway on the property.

Prior to February 1, 1995, Planning staff provided all the requested information to the Commission. At the Commission's February 1, 1995, meeting, approximately 12 people spoke in opposition to the rezoning and the Commission voted to deny the request with a vote of 5-2.

Furthermore, the Commission voted unanimously to recommend to City Council that the process be started to re-evaluate the current zoning of the lot and for the process to include reactivation of the Citizens Advisory Committee.

At the request of the current property owner and the potential buyer of the property, the Planning Department has formally appealed the Commission's decision to City Council.

Assistant City Attorney Patsy Meldrum said that the East End/Valley Street Redevelopment Plan, adopted in 1978, showed that this particular piece of property (which constituted many tax lots at the time) was to be zoned for a retail store to be built. In 1978, the Commercial General designation was the closest designation for implementing that type of use. When portions of this property were rezoned by Ordinance Nos. 1253 and 1297 in 1981 and 1982, clerical errors were made with regard to some of the lots. As a result, portions of this tax lot were not clearly rezoned from R-3 Residential District to CG Commercial General District. This proposed ordinance would clear up the clerical errors made in 1981 and 1982.

In response to a question from Councilman McClure, Ms. Meldrum stated that the law in North Carolina clearly allows the City to rezone a lot due to clerical errors.

Councilwoman Sitnick asked if this whole property were rezoned today from R-3 to CG, remembering that it's surrounded by single family houses, would that be considered spot zoning. Ms. Meldrum responded that action proposed today would not be because there are small portions of this whole two acres that are in question. However, if we were to start all over today and consider it, we would have to look at that question separately. As the rezoning was done in 1981 and 1982, the statute of limitations has expired on that question.

Councilwoman Sitnick asked if it would constitute spot zoning if the property would be rezoned from CG to R-3. Ms. Meldrum stated that it would not, however, there might be a question as to whether or not that constitutes a substantial change in the East End/Valley Street Redevelopment Plan.

Councilwoman Sitnick then asked if it was stipulated in the Redevelopment Plan that this property in question was originally intended for African-American retail use. Ms. Brison responded that she was not aware of any language specifically stating the type of ownership and she not sure if we could do that by a zoning ordinance. We might be able to do it through other means, for example, if there were grants or something like that and the sale of the property were based on some federal grant that was related to some minority class. The Redevelopment Plan itself says that it would allow one neighborhood store area in the approximate center of the community. At the time the Redevelopment Plan was adopted, CG was the closest zoning designation that would allow a neighborhood retail store. When City Council adopted the CG designation in 1981 and 1982, then the rezoning itself meant that all of the uses then permitted, or thereafter permitted, in the CG zoning district would be permitted on that lot. The zoning ordinance itself did not restrict it to neighborhood retail.

Councilman Watts said that the neighborhood said they were promised by previous Councils that this property would remain residential.

Ms. Elizabeth Graham, Chair of the Planning and Zoning Commission, related to Council how difficult a decision this rezoning request was, however, the Commission sided with the residents in the area and denied the rezoning request.

Ms. Sharon Barrett, attorney representing the Community Family Practice, urged Council to correct these clerical errors and allow her clients to be the good neighbors that they are willing and capable of being. She stated that this piece of property needs to be rezoned in order to use the property for commercial purposes, as was originally intended. She felt these doctors have been negotiating for this property in good faith since October of 1994 and on December 20, 1994, City Council authorized the Housing Authority to sell this disposal parcel to them. She felt the office would blend in well with the community with a single story building. The Commission requested the doctors meet with the neighborhood. They went door-to-door to the adjacent property owners and attempted to attend two community meetings, however, they were asked not to attend. She said these doctors would be an asset to the community, not an eyesore.

Upon inquiry of Vice-Mayor Peterson, it was determined that the doctors could get any deposit money they have paid towards the purchase if this property was not rezoned.

Councilwoman Sitnick said that the calls and letters she has received expressed no opposition to these particular doctors, just that they did not want the property rezoned to a commercial zone. She felt that the CG uses permitted are inappropriate for this neighborhood and that the initial rezoning to the CG district was a mistake.

Councilman McClure felt that even though the property is zoned CG, this is a good opportunity for the neighborhood to have control over what is built in that area. He said that this is a very good organization and community oriented.

Dr. Martha Salyers, Community Family Practice, said that in looking for an area in which to relocate, they looked at an area that had access to the hospitals, was close to downtown, came within their budget and had a good surrounding neighborhood. This particular piece of property met all their needs. She hoped Council would correct these clerical errors and would allow them to provide a valuable service to this community.

The following people spoke in opposition to the rezoning for various reasons, including, but not limited to the surrounding property would be devalued, the neighborhood is close enough to a hospital, the residents in the area already have doctors, the property should be rezoned to allow single-family houses to be built, they do not want government dictating what should go into their community, the CG zone will invite crime, the rezoning would be spot rezoning, the property should be rezoned entirely to residential, the mistake was made back in 1978 when the Redevelopment Plan showed this should be a commercial lot, the Redevelopment Plan should be re-visited, and the neighborhood might be more acceptable to an African-American building something commercial on the property:

Ms. Edith Webb
Ms. Mary Young, 18 Martin Luther King Jr. Drive
Mr. Halliburton
Ms. J. Lake, property owner facing the property in question
Mr. Ricky Morgan
Ms. Mary Gilchrist, 27 Hazzard Street
Ms. Virginia Summey, 74 Mountain Street
Rev. Ronald Knight, Pastor of St. James AME Church on Martin Luther King Jr. Drive and Hildebrand
Mr. William Young, Vice-President of the East End Community Area
Ms. Glenda McDowell, President of the East End/Valley Street Association
Mr. H.K. Edgerton

Mayor Martin said that Ms. Emma Morgan, 13 Ridge Street, called his office to express her opposition to the rezoning by stating that the neighborhood does not want a doctors office.

Mr. Nicholson stated that Mr. Sidney Shorter, resident in the area, called in to express his opposition.

Ms. Jane Gianvito Mathews, member on the Planning and Zoning Commission, explained to Council the need to have participation of

the community again in the redevelopment plan process and the need to look at it continually. She was not sure if the community completely understands what the zoning in the community is and what the zoning allows and this would be a good opportunity to inform them. She noted that the vote of the Planning and Zoning Commission was 4-3, rather than 5-2 as eported by Mr. Nicholson.

Councilman Swicegood felt the property should be rezoned completely to residential and allow houses to be built.

Councilwoman Sitnick read some of the uses allowed in the CG zone and felt that the lot could have commercial development on it that would be much more intrusive than the doctors office.

Councilwoman Sitnick asked if there has been a attempt on the part of the neighbors to rezone the lot to residential. Mr. Young stated that the neighborhood has asked the Housing Authority to rezone the property to residential but those requests have been denied.

When Councilwoman Field inquired about the doctors contacting the neighborhood, Mr. Halliburton felt the doctors only contacted residents that were in favor of the rezoning. Ms. McDowell stated that the doctors did, in fact, request to attend two community meetings, however, the doctors submitted a map and letter clearly outlining their proposal and the community felt they understood the rezoning request and it was not necessary for the doctors to attend their meeting.

Upon inquiry of Councilwoman Sitnick about why the doctors were not told about the problem with zoning when they initially looked at the property, Mr. Larry Holt, representative of the Housing Authority, explained that the Housing Authority requested the property be rezoned CG in 1981, in accordance with the Redevelopment Plan. The Housing Authority was under the impression that the property was rezoned CG - even the maps at the Housing Authority indicated that this property was zoned CG. The Housing Authority was not made aware of the zoning irregularity until Community Development Director Marvin Vierra contacted them which was after Council had approved the sale of the disposal parcel pm December 20, 1994. At that time, City staff started the process of trying to correct the clerical errors. He felt the Housing Authority's role is to make the land available to commercial development, which it did in this instance.

Councilwoman Sitnick was very concerned that the City Council was not made aware of this zoning irregularity when this matter was before them on December 20, 1994, for authority to sell a disposal parcel to the Community Family Practice.

Mayor Martin closed the public hearing at 6:30 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved to deny the rezoning request. This motion was seconded Vice-Mayor Peterson.

Upon inquiry of Councilman McClure as to a possible conflict of interest since the company he works for will be dealing with the doctors, but he will not be, City Attorney Slawter said that it was his opinion, under the circumstances, that he would not have a conflict of interest.

Upon inquiry of Councilwoman Field as to some perceived conflict of interest since her firm does work with the Housing Authority, City Attorney Slawter felt her relationship was too remote and therefore, under the circumstances, felt she would not have a conflict of interest.

On a roll call vote of 4-3, the motion to deny the rezoning request passed, with Councilwoman Sitnick, Councilman McClure and Mayor Martin voting "no".

Vice-Mayor Peterson moved to instruct the Planning staff to start the process to re-evaluate the current zoning of the lot for possible residential designation and for the process to include reactivation of the Citizens Advisory Committee. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilwoman Sitnick stated that the Community Family Practice group acted in good faith and offered a formal apology to them because they were not fully informed about the specifics of the real estate they were looking at. She said this Council should come up with either a policy or a process that prevents this kind of unfair behavior in the future.

At this time, 6:40 p.m., Mayor Martin announced a recess until 7:00 p.m.

At 7:00 p.m. the meeting reconvened.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. RESOLUTION AMENDING THE STORMWATER SPECIFICATIONS MANUAL

At the request of staff, this item was deleted from the agenda.

B. RESOLUTION NO. 95-15 - RESOLUTION ESTABLISHING A STEERING COMMITTEE ON THE REEVALUATION PROCESS FOR THE HEAD OF MONTFORD REDEVELOPMENT PLAN

Ms. Julia Cogburn, Planning Director, said that Planning staff is requesting that a steering committee be named by Council to work with staff on the reevaluation of the Head of Montford Redevelopment Plan.

At Council's direction, staff has begun work on a reevaluation of the Head of Montford Redevelopment Plan adopted in 1987. This reevaluation was initiated following a rezoning application which came before Council last year. Staff has already conducted one neighborhood meeting on this reevaluation process and plans a second in February. Following these larger community meetings, staff proposes that a steering committee continue working on recommendations with the staff leading up to another neighborhood meeting and finally the presentation of any recommendations to Council. Staff feels that Council should appoint this steering committee -- selecting from among interested Montford residents and property owners or others important to the redevelopment process.

Staff recommends that Council adopt a resolution establishing a Steering Committee for the Head of Montford Redevelopment Plan Reevaluation Process. Staff proposes that this Committee be comprised of 13 individuals, two of whom shall represent the Planning and Zoning

Commission and one of whom shall represent the Historic Resources Commission. Two members of the Planning and Zoning Commission have requested that they be appointed to the committee, as have several people involved in the neighborhood.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-15. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 186

C. MOTION TO APPROVE THE COMMUNITY DEVELOPMENT BLOCK GRANT PRIORITY RATING SYSTEM FOR FISCAL YEAR 1995

Mr. Marvin Vierra, Community Development Director, said that during February, 1995, the City will be receiving applications from agencies desiring to receive CDBG funding for the coming year. As we have done in the years past, the Housing and Community Development Committee has again recommended to Council approval of the priority rating system to be used. This system places the highest priority on activities designed to improve or expand the affordable housing stock of the City. The priority rating system is not a federal requirement. The rating system notifies the public of the City's priorities in reviewing agency applications.

Vice-Mayor Peterson wondered how adopting this rating system would affect the decision to bring the Housing and Community Development Committee in-house.

Mayor Martin suggested each project be reviewed on its own merit and have the rating system as a guideline to review each project.

Mr. Vierra did state that the rating system is not the only basis which we evaluate projects - the most emphasis being placed on the merit of each project.

Councilwoman Field moved to approve the priority rating system for the Community Development Block Grant applications for Fiscal Year 1995 that has been recommended by the Housing and Community Development Committee of City Council as guidelines and that each application be reviewed on its own merit. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

D. ORDINANCE NO. 2186 - BUDGET AMENDMENT RELATIVE TO CONSULTING SERVICES ASSOCIATED WITH THE RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

RESOLUTION NO. 95-16 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH RICE, WILLIAMS ASSOCIATES FOR CONSULTING SERVICES TO THE CITY OF ASHEVILLE IN THE RENEGOTIATION OF A FRANCHISE AGREEMENT WITH TCI CABLEVISION OF ASHEVILLE

Ms. Patsy Meldrum, Assistant City Attorney II, said that a budget amendment, in the amount of $75,000, is needed to secure a consultant to

assist the City of Asheville in the renegotiation of a franchise agreement with TCI Cablevision of Asheville. The accompanying resolution will authorize the City Manager to sign an agreement with Rice, Williams Associates for consulting services to the City of Asheville in renegotiation of a franchise agreement with TCI Cablevision of Asheville.

The City Council previously authorized the City Manager to secure a consultant to assist the City of Asheville in the renegotiation of a franchise agreement with TCI Cablevision of Asheville. The North Carolina League of Municipalities has published a resource list showing cable television consultants with local government experience in North Carolina. Proposals were solicited from three of those consultants: Rice, Williams Associates; Charles Gramlich & Associates (who prepares the proposal as a subcontractor to a Minnesota law firm - Fredrikson & Byron); and McNair & Sanford, a regional law firm with offices in Raleigh, North Carolina.

The proposal by McNair & Sanford is mostly for assistance with negotiations of the franchise agreement and drafting the documents. The proposal by Fredrikson & Byron, with Charles Gramlich & Associates, provides for a wider range of services, but does not include engineers as part of the staff team who would perform the technical analysis of the local cablevision system. Rice, Williams Associates offers technical review (including two staff engineers), financial review and legal review. The firm of Rice, Williams Associates is, therefore, recommended.

Rice, Williams Associates has provided services to a number of cities in North Carolina. Telephone calls were made to the cities of Charlotte, Greensboro and Rocky Mount to review their experience with Rice, Williams Associates. The firm is highly recommended. In addition, Assistant City Attorney Patsy Meldrum reviewed the documents prepared for the City of Greensboro as a result of the work of Rice, Williams Associates and she found them to be exemplary documents. Rice, Williams Associates is also a corporation which is 50% women-owned.

Mayor Martin said that members of Council have previously received a copy of the ordinance and the resolution and they would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2186. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2186 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 22

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-16. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 187

E. ORDINANCE NO. 2187 - BUDGET AMENDMENT RELATIVE TO FUNDING TWO RECYCLING CENTERS

Mr. Bob Wurst, Audit/Budget Director, said that several weeks ago the City Council asked staff to consider alternatives to fund the cost for up to two additional recycling drop centers. Since the Buncombe

County Commissioners announced that they would no longer support recycling drop centers in the community, the Council is concerned about how Asheville's citizens will be able to continue to recycle. At Council's request, City staff solicited proposals from four recycling companies in the area. Two responded. The estimated net cost per month for each recycling center, based on ABC Recycling's low bid, is approximately $1,770 a month. This amount includes an estimated return on recyclables of approximately $250 a month per site.

This budget amendment, in the amount of $25,500 supports the total cost of these two additional City-sponsored recycling drop centers for up to six months. The revenues for this amendment include an estimated $3,000 return to the City from the sale of recyclables and $22,500 from the General Fund Capital Contingency.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2187. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, Ordinance No. 2187 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 24

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 24, 1995, AND THE WORKSESSION HELD ON JANUARY 31, 1995

B. CONSIDERATION OF AN APPLICATION FOR A LICENSE FOR A MASSAGE THERAPIST - ERIN SCHONE

Summary: Ms. Erin Schone seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City Code. City staff has reviewed Ms. Schone's application and all pertinent requirements have been met.

C. RESOLUTION NO. 95-17 - RESOLUTION FIXING THE DATE OF PUBLIC HEARING ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED WEST OF OVERLOOK ROAD (THE HOLT AT BILTMORE PARK AND GLEN OAKS AT BILTMORE PARK) FOR FEBRUARY 21, 1995

RESOLUTION BOOK NO. 22 - PAGE 188

D. RESOLUTION NO. 95-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH MOSER MAYER PHOENIX ASSOCIATES, P.A., FOR SCHEMATIC DESIGNS AND WITH DNA DESIGN ASSOCIATES INC. FOR SURVEYING SERVICES ON THE TRANSIT FACILITY SUSPENDING FURTHER PLANNING ON PRITCHARD PARK

Summary: The conflict with neighboring property owners concerning the Transit Authority's proposed bus facility on Aston Street is having adverse effects on the planning and execution of the bus facility and the redevelopment of Pritchard Park.

RESOLUTION BOOK NO. 22 - PAGE 192

Councilwoman Field moved for the adoption of the Consent Agenda This motion was seconded by Councilman Watts and carried unanimously.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of January 19-25, 1995: Raymond Bolden (Streets), Neil Battle (Streets), Clydell Johnson (Water) and Paul and Janice McClurry (Inspections).

He said the following claims were received during the week of January 26-February 1, 1995: Luoise Conley (Streets), CP&L (Fire), Ross Perkinson (Water), National Linen (Water), Joel Edwards (Fire), Jerry Jones (Water), Hubert Mosley (Streets) and BellSouth (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

- **PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE REGARDING NONCONFORMING SIGNS**

  ORDINANCE NO. 2188 - ORDINANCE AMENDING APPENDIX A OF THE *CODE OF ORDINANCES REGARDING NONCONFORMING SIGNS*

Mayor Martin opened the public hearing at 7:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that at the direction of the previous City Council, the Planning and Zoning Commission and Planning staff have been reviewing a draft wording amendment which addresses nonconforming signs.

On December 7, 1994, the Planning and Zoning Commission reviewed and approved with a vote of 4-3 a proposed wording amendment to the Zoning Ordinance regarding nonconforming signs. This wording amendment was prepared by staff at the request of the Asheville City Council. The wording amendment grandfathers in all nonconforming signs which comply with the regulation of the City's Sign Ordinance which was adopted in October of 1977. Currently, these signs are subject to coming into compliance ("amortization") in 1997.

The draft approved by the Planning and Zoning Commission also recommends that language be added which allows for repainting, changing the message, or changing the panels on all nonconforming signs. Currently, signs must come into compliance when such changes or alterations are made. The Planning and Zoning Commission voted 4-3 to recommend the ordinance to you.

She noted another change in the draft ordinance which basically suggests a means for dealing with signs which either come into the City through expansion of extra-territorial jurisdiction or annexation or which become non-confirming by a subsequent amendment to the sign ordinance. Basically for signs that fit in those categories and which do not conform with the 1977 ordinance, they are required under this particular provision to come into compliance or be removed within five years of the effective date of whatever amendment or extension brings

them into nonconformance. Under the current ordinance there is a provision for seven years. The reason staff has suggested changing that to five years is because we feel that equates with the five years that is given to anyone else that doesn't comply with the 1977 ordinance.

She also called to Council's attention to a portion which has been added recently, which basically has a provision for dealing with signs which had obtained a variance. What this provision states is that "any on-premise or off-premise signs (and their sign structures) which did not conform with requirements of the sign regulations adopted in Article 9 of Chapter 30 of the Code of Ordinances on October 21, 1977, but which have been granted a permit as a result of a variance granted by the Board of Adjustment shall be allowed to remain in accordance with the terms of the variance granted."

After updating some figures since the worksession on January 31, 1995, the draft ordinance before the Council would grandfather 74 off-premise signs, 733 on-premise establishments, and 50 billboards.

She noted that signs that are on federal-aid primary highways are not subject to having to come into compliance so the numbers may be reduced by a small amount.

The following individuals spoke in favor of grandfathering all nonconforming signs which comply with the regulation of the City's Sign Ordinance which was adopted in October of 1977, and some individuals felt that all nonconforming signs should be grandfathered:

Mr. Robert Gresham, Vice-President of Service Distributing Company out of Albemarle, N.C.
Mr. Chris Moutos, resident of 155 Tunnel Road
Mr. Carl Ricker, born and raised in Asheville
Mr. Loyd Kirk, owner and operator of the Forest Manor Inn on Hendersonville Road
Mr. and Mrs. Wilbur Miller, Miller Jewelers in the South Forest Shopping Center at 780 Hendersonville Road
Mr. Bill Fishburne
Rev. Wendell Walley, Zephyr Hills Free Will Baptist Church on Shelburne Road in West Asheville
Mr. Bob Lawrence, Bob Lawrence Power Equipment
Mr. Reynolds Calvert, owner of Antique Train and Toy
Mr. Dennis Michael, resident of Fairview, but general manager for a mini-storage facility
Mr. Ron Dame
Ms. Kathy Deblaker, Manager of Stow-Away Storage in West Asheville
Mr. Jeff Nolan, employee of Fairway Outdoor
Mr. Tony Robertson, Asheville Lock and Key
Mr. Darrell Merchant, General Manager of Fairway Outdoor Advertising of Asheville
Mr. Charles Worley, native of Asheville
Mr. Gerald Dean, real estate broker in Asheville
Dr. Earl Sunderhaus, has office building on Tunnel Road
Mr. Robert Peterson, owner of Bob and Denise's Classie Car Wash on Merrimon Avenue
Mr. Albert Sneed
Mr. Bob Selby, speaking on behalf of the Council of Independent Business Owners
Mr. Lloyd Layman, owner of two signs in Asheville
Mr. Jim Reeves, employee of Fairway Outdoor Advertising
A representative of Ryans Family Steakhouse Restaurant
Mr. Pete Hall, Fairway Outdoor

The following individuals spoke in opposition to grandfathering the nonconforming signs:

Ms. Jane Bingham, resident of Biltmore Forest, but born in the City of Asheville
Ms. Katheryn Gallagher, resident of Asheville
A native of Asheville
Ms. Marie Colton
Mr. Leo Beauregard, resident of Asheville
Mr. Dennis Hodgson, private citizen
Mr. Jack Brooke, resident of Swannanoa
Mr. Jack McEwan, owner and manager of Cedar Crest Victorian Inn
Mr. Hiram Cody
Mr. Frank Martin, resident of Asheville and speaking on behalf of the Coalition for Scenic Beauty
Mr. Frank Martin read a letter from Shirley Berdie
Mr. Paul Endry

Councilwoman Sitnick asked to address some comments made by some speakers relative to growth, the economy, jobs, young people leaving, etc. The population of Asheville is up by 14%, the County is up by 24%, employment levels have grown here by 21% as compared to the State average which is 9.3%, the service sector is up 38%, manufacturing is up 11-1/2%, and construction is up 7%. We've had a number of new factory jobs come in, we have many large retailers who have located here - Montgomery Ward, Home Depot, a number of large national franchises - Office Depot, Sams, we have a 12-plex, we're going to have another 12-plex. Our sign ordinance so far does not seem to have kept a number of national businesses from coming into beautiful Asheville and locating here. Retail sales are up, building sales are up, development is up, business is up, traffic is up, litter is up, garbage is up, crime is up - all of it, that goes along with growth in the economy. A couple of headlines in the paper recently read "merchants faith in City justified," "Asheville prospering more than most believed," "plant targets world market locating in Asheville," "City zoning considered orderly growth," "commercial building surges," etc. She didn't want anybody leaving here with a depressing picture of this wonderful community. In part it's due to our wonderful business community, both small and large business, and in part it's due to those folks who want to maintain a certain spiritual beauty that I don't think can be equaled anywhere else in this country. This is a very special place visually. I just wanted to mention those few things and I have ten or 12 pages of similar facts that have been very well researched and documented. I have some documentation of developments that have been requested and granted - only one denied. I have a complete listing of all the sign variances that have been requested - 98% of those have been granted. So I would say Asheville is doing pretty good as far as a community and an economy and a vital growth center.

Councilman Swicegood felt we have a beautiful City and obviously the signs that we have up now did not distract the businesses or the retired people that we have heard speak today. He felt that we are not changing the sign ordinance - but grandfathering the signs that this City and the people that do business in this City put up legally and now the City is asking the community and the business people to take their signs down without any compensation. He supported grandfathering the signs stating that the sign ordinance in place now will not change, other than grandfathering if it passes.

Councilman Watts spoke in support of grandfathering the signs.

Councilman McClure agreed with Councilman Swicegood stated about not changing our sign ordinance. He felt the sign ordinance is working because we started with 374 and we're down to 234. He stated that Council does re-visit things constantly, such as the 2010 Plan, the East End/Valley Street Redevelopment Plan, the Head of Montford Redevelopment Plan, etc. He felt that the City didn't need to change the sign ordinance because he felt this was more of a basic argument on property rights and the principle of taking someone's property without just compensation. He felt there were a lot of valid points on both sides of this issue and he feels that grandfathering is the correct way to go.

Mayor Martin closed the public hearing at 9:00 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2188. This motion was seconded by Councilman Swicegood.

Councilwoman Sitnick proposed an amendment to the ordinance in reference to small business people. She moved to amend the motion to grandfather all on and off-premise signs except all non-conforming off-premise signs and their sign structures that exceed 150 square feet in size. This motion was seconded by Councilwoman Field.

Councilwoman Sitnick clarified her motion by saying that this means all on and off-premise business identification signs would be grandfathered.

Councilman McClure asked if we had any indication what that affects, how many signs that affects and what the impact would be.

Ms. Cogburn questioned if size would be the only stipulation. She felt it would be easier from an administrative standpoint if you would look to compliance with a particular ordinance.

City Attorney Slawter was concerned about expanding the grandfathering provision in terms of what's been advertised and what's been studied by the Planning and Zoning Commission and recommended to the City Council. He stated that the recommendation that has come to the Council relates to those signs that conform to the 1977 ordinance; if the motion is intended to go beyond that and grandfather all on-premise signs and all off-premise signs except those in excess of 150 square feet, the motion would probably go beyond what has been noticed for consideration by the Planning and Zoning Commission and by the City Council. If Council is going to go in that direction, he recommended Council adopt the motion before you today and instruct the Planning staff to come back to you with an additional ordinance to further grandfather whatever additional signs you want to.

Councilwoman Sitnick then asked to amend her prior motion to grandfather all on and off-premise signs and their sign structures which complied with the 1977 ordinance except all nonconforming off-premise signs and their sign structures that exceed 150 square feet in size. Councilwoman Field accepted the amendment to the prior motion.

Mr. Slawter felt that could be done tonight under what has been advertised because you would be grandfathering fewer signs than the ordinance you have before you. He felt that perhaps the ordinance could be amended by adding a sentence in the existing proposed ordinance which reads: All nonconforming on-premises and off-premises signs (and their sign structures) which conform as of August 28, 1990, with the requirements of the sign regulations adopted in Article 9 of Chapter 30 (this Appendix) of the Code of Ordinance on October 21, 1977, shall be allowed to remain in accordance with the provisions set forth herein, except for those off-premises signs and sign structures in excess of 150 square feet." (underlining denotes amendment)

A vote on the amendment to the motion was taken and motion failed on a 3-4 vote with Vice-Mayor Peterson and Councilmen McClure, Swicegood and Watts voting "no".

On a roll call vote of 4-3, Ordinance No. 2188 passed on its first reading, with Councilwoman Field, Councilwoman Sitnick and Mayor Martin voting "no".

City Attorney Slawter said that under the Charter provisions unless it carries by at least a 2/3's majority, a second vote is required.

Vice-Mayor Peterson moved to suspend the rules and proceed to the second and final reading of Ordinance No. 2188. This motion was seconded by Councilman Swicegood and carried unanimously.

On a roll call vote of 4-3, Ordinance No. 2188 passed on its second and reading, with Councilwoman Field, Councilwoman Sitnick and Mayor Martin voting "no".

City Attorney Slawter apologized and stated that under the State law a second reading would need to be held at the next formal meeting of the Council.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:30 p.m.

Magdalene Burleson
CITY CLERK

MAYOR

Tuesday - February 14, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Joseph Carr Swicegood (out of town)

SCHOOL BOARD INTERVIEW AND NAMING FINALISTS

City Council interviewed Linda Eubanks. They then asked that the following people be interviewed for the two vacancies on the Asheville School Board: Brian Weinkle, Hugh McCullom, Roy Harris, James Baten, Larry Wilson, Carol Collins and Linda Eubanks. The interviews will be held on Tuesday, February 28, 1995, beginning at 5:00 p.m. in the Council Chamber, City Hall Building.

City Council also gave the City Clerk a list of questions they would like to have answered in written form prior to the February 28 interviews.

HARVEST HOUSE PROPERTY

City Attorney Slawter summarized the action of purchasing a lot adjacent to the Harvest House facility on Kenilworth Road from Brian K. Bailey and wife, Bonnie D. Bailey for $1,000.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

SIGN DEFINITION AND NON-CONFORMING SIGNS

A. Sign Definition - Planning Director Julia Cogburn asked that the definition of "sign" as found in the zoning ordinance be clarified. This language clarifies that the sign regulations do not apply to architectural features and awnings (except that portion of the awning identified).

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

B. Non-Conforming Signs - Planning Director Julia Cogburn said that staff wishes to clarify a potential for misinterpretation over the effect of the sign ordinance amendment approved on first reading February 7, 1995, on signs not in compliance with the specifications of the 1977 ordinance but grandfathered by that ordinance.

A question has arisen as to the potential effect of the ordinance amendment which Council approved on first reading on February 7, 1995, on signs not in compliance with the specifications of the 1977 ordinance but grandfathered by that ordinance. The question is whether or not the ordinance would, by grandfathering signs in compliance with the 1977 ordinance, also grandfather signs which do not conform with that ordinance (1977) but which were grandfathered by that 1977 ordinance.

Two clarifying amendments were presented to Council - Alternate 1 provides for signs grandfathered by the 1977 ordinance to be also grandfathered by the amendment to the sign ordinance. Alternate 2 specifies that the signs grandfathered by the 1977 ordinance will <u>not</u> be grandfathered by the amendment regarding nonconforming signs.

It was the consensus of Council to proceed with appropriate action at the next formal meeting, amending the sign ordinance as staff presented with Alternate 2 - signs grandfathered by the 1977 ordinance will not be grandfathered by the amendment regarding nonconforming signs.

STANDARDS FOR REPLACEMENT OF EXISTING MANUFACTURED HOMES IN ALL ZONING DISTRICTS

Mr. Gerald Green, Senior Planner, briefed the Council by saying that at the request of the Board of Adjustment, the Planning staff has developed standards for new manufactured homes replacing existing manufactured homes in all residential zoning districts.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

SONDLEY ESTATES SPECIAL ASSESSMENT PROJECT

Mr. Bob Wurst, Audit/Budget Director, explained the project is now complete and it was well within budget for both the construction and associated engineering design, inspection and management.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

MINORITY BUSINESS ADMINISTRATION FUNDS

Finance Director Larry Fisher explained that a budget ordinance in the amount of $89,910, will be needed to establish the 1994-95 appropriation for administration of the Minority Business Program of the City. HUD has informed the City that the Minority Business Program was no longer eligible for funding with CDBG program funds.

Councilwoman Sitnick wanted to make sure that when this move is made to the Purchasing Division that the Program and its effectiveness are monitored frequently.

Mr. Fisher said that he would provide documentation to the City Council on a regular basis of the monitoring results.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

STORMWATER ORDINANCE AMENDMENT

City Engineer Harold Huff explained that the stormwater ordinance and associated standard specifications were adopted on June 7, 1994, to become effective on July 1, 1994. After seven months, it is apparent that minor alternatives to various sections of the specifications manual may from time to time, on a case by case basis, be desired by both the designing professional and City Engineer.

The most recent example involves the proposed Carson Creek Apartments. If the 25 feet distance was not altered, this would eliminate space for one of the proposed building units and may make the project significantly less economically feasible.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

COMMUNITY DEVELOPMENT BLOCK GRANT USES

Mr. Marvin Vierra, Community Development Coordinator, explained the six steps involved in the process of determining if CDBG funds may be used to assist a proposed activity. The most important step is the determination if the proposed activity meets one of the three national objectives of the program: (1) benefiting low and moderate income persons; (2) addressing slums or blight; and (3) meeting a particularly urgent community development need.

He then went through the process of determining CDBG eligibility step by step and answered various questions from Council.

After discussion about the Housing and Community Development Committee, Councilwoman Field suggested that the Council members that are on that committee (Vice-Mayor Peterson, Councilwoman Sitnick and Councilman Watts) make the first cut on the applications received for CDBG funding.

AUTHORITY TO SIGN CONTRACTS

City Manager Westbrook stated that at the direction of City Council on January 31, 1995, he drafted a new policy on the Manager's authority to sign contracts. He recommended a $30,000 limit with this policy, which will coincide with the Director of Water Resources Department.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

FEES AND CHARGES UPDATE

Mr. Bob Wurst, Audit/Budget Director, explained various amendments to the fees and charges manual, consistent with the recommendations of the City Council Fees and Charges Committee.

Vice-Mayor Peterson, Chairman of that Committee, explained the various charges and said that each department that manages to raise revenue will be allowed to keep that money in their specific department and with the direction of the City Manager, dedicate that money for specific improvements.

Councilman Watts objected to raising the rental fee at Stephens-Lee Recreation Center to $250 when other centers only charge $200, especially due to the condition of the gym and the overall condition of the Center. Mr. Irby Brinson, Executive Assistant in the Parks and Recreation Department, stated that it costs more to operate the Center because when special events take place, there is extra work involved in setting up and cleaning Stephens-Lee, in addition to tables, chairs, etc. having to be brought in from other centers. Mayor Martin and Vice-Mayor Peterson stressed that this is purely business and race is not an issue.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

PARKING FOR SOUTHERN CONFERENCE BASKETBALL TOURNAMENT

City Manager Westbrook stated that the Sports Committee is requesting that the parking meters in the area of the Civic Center not

be ticketed during the Southern Conference March 2-5, 1995. The City Attorney's Office has informed the Manager that he has authority to waive the parking requirements, if he so chooses.

Since no action is required by Council, this is for informational purposes only.

SUBMISSION OF HOME AND CDBG FUNDING APPLICATIONS

Ms. Julia Cogburn, Planning Director, explained the process necessary for the City to seek HOME and CDBG funding for the development of a single-family, owner-occupied housing subdivision affordable to low and moderate income families.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

RESOLUTION NO. 95-19 - RESOLUTION OF APPRECIATION TO RETIRING EMPLOYEE WILLIAM F. WOLCOTT JR.

Mayor Martin read the resolution stating that William F. Wolcott Jr. has been an employee for 45 years and has requested retirement from his position as Associate City Manager/City Clerk, effective December 31, 1994. He expressed City Council's appreciation to Billy for his service to the City of Asheville and its citizens.

Resolution No. 95-19 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 194

OTHER TOPICS

Vice-Mayor Peterson stated that he would be making a motion in the near future to move the Council meeting day to another day other than Tuesday, which conflicts with the Buncombe County Commissioners meeting day. He also would make a motion to change the meeting time from 4:00 p.m. to 5:00 p.m. Councilwoman Sitnick said that she would be pleased to second the motion.

City Manager Westbrook announced that the next joint meeting between the City Council and the Buncombe County Commissioners would be held on Tuesday, May 23, 1995, at 5:00 p.m. in the Buncombe County Courthouse in Room 204.

Councilwoman Sitnick was very disturbed that the Civic Center sold beer during the circus.

Councilwoman Field asked for the City Manager to try to obtain the information she requested from Mr. Larry Holt, representative of the Housing Authority, relative to F. A. Johnson and the South Pack Square Project.

Councilwoman Sitnick asked for an update, at the next Council worksession, on the Broadway Widening Project. She asked that the public have input at the worksession. After much discussion, including Councilwoman Sitnick objecting to having to wait three months for NC DOT to bring in a team to update the Council, it was decided that Council would schedule the update after the State Historic Preservation Office has something to report. It recently met with DOT officials and made

its recommendations as to whether any of the project area should be exempted for historical reasons. City Manager Westbrook was instructed to have staff try to obtain a date when that decision would be reached. Councilwoman Sitnick stated that she hoped this Council doesn't pay the price for having no public dialog.

Councilman McClure suggested several names for the UDO Steering Committee. This item will be placed on Pre-Council on February 21, 1995.

City Clerk Burleson asked Council if they were going to meet during Easter week in April for scheduling purposes. It was the consensus of Council to have a formal meeting on the following Tuesday, April 18, 1995. Mayor Martin said that he would not be in town on April 4, 1995, during a formal Council meeting and asked if the Council was interested in changing the formal meeting dates in April to the second and fourth Tuesday, instead of the first and third Tuesday. Vice-Mayor Peterson strongly objected to moving the formal meeting date just because the Mayor would not be in town. It was the consensus to continue with the formal meeting dates of April 4 and April 18, 1995.

Mr. H.K. Edgerton asked for information relative to the Sondley Estates Project. City Manager Westbrook asked if Mr. Edgerton would submit his questions in writing and he would be happy to follow-up on those concerns.

ADJOURNMENT

Mayor Martin adjourned the meeting at 5:50 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - February 21, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (came into meeting at 5:00 p.m.), Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. REGIONAL DESIGNATION AWARD IN THE ARTS

Ms. Maggie O'Connor, Historic Resources Director, said that on January 31, 1995, the Atlanta Committee for the Olympic Games Cultural Olympiad announced the recipients of the 1995 Regional Designation Awards in the Arts. Among this years 30 recipients is the Historic Resources Commission of Asheville and Buncombe County.

HRC's award winning project, "An Architect and His Times, Richard Sharp Smith: A Retrospective," is an exhibition of at least 50 original drawings by Richard Sharp Smith, celebrating his contributions to Asheville and the region and commemorating the 100th anniversary of the completion of the Biltmore House.

Vice-Mayor Peterson said that he has seen these drawings and hoped the City could find a permanent location for exhibition.

Councilwoman Sitnick stated that his drawings actually attract tourists to the Asheville area and hoped an exhibition space could be found.

Councilwoman Field suggested some display space at Pack Place might be a suitable location for the drawings.

On behalf of the City Council, Mayor Martin congratulated Ms. O'Connor and the HRC Commission.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE REGARDING THE DEFINITION OF "SIGN"

ORDINANCE NO. 2189 - ORDINANCE AMENDING SECTIONS 30-2-1 AND 30-9-2 OF APPENDIX A OF THE CODE OF ORDINANCES REGARDING THE DEFINITION OF "SIGN"

Mayor Martin opened the public hearing at 4:15 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, said that on January 4, 1995, the Planning and Zoning Commission reviewed and recommended

unanimously the wording amendment. This amendment changes the definition of "sign" found in the City's Zoning Ordinance to add the following language:

This definition shall not be interpreted to include awnings except for the portion of an awning which contains a message, logo, emblem, or similar wording or symbols which highlights such message, logo, emblem, or similar wording or symbols. Furthermore, this definition shall not be interpreted to include architectural features of a building even when such features (i.e. roof style/color) are identifiable with a certain establishment.

She said adding this language clarifies that the sign regulations do not apply to architectural features and awnings (except that portion of the awning identified).

The Planning staff and Planning and Zoning Commission both recommend the amendment.

Mayor Martin closed the public hearing at 4:17 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2189. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2189 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 29

B. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO ESTABLISH STANDARDS FOR THE REPLACEMENT OF EXISTING MANUFACTURED HOMES IN ALL ZONING DISTRICTS

ORDINANCE NO. 2190 - ORDINANCE AMENDING APPENDIX A OF THE CODE OF ORDINANCES FOR THE REPLACEMENT OF MANUFACTURED HOMES ON INDIVIDUAL LOTS

Mayor Martin opened the public hearing at 4:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that on January 4, 1995 meeting, the Asheville Planning and Zoning Commission reviewed and recommended approval of an amendment to Appendix A (Zoning Ordinance) of the Code of Ordinances of the City of Asheville. The recommended revision addresses standards for the replacement of existing manufactured homes throughout the city. Currently, the City's ordinance requires that all new and replacement manufactured homes meet the same standards.

The recommended revision establishes different standards for replacement homes than for new manufactured homes. Replacement manufactured homes may be single-wide homes while new manufactured homes must continue to be double-wides. All other standards remain the same for new and replacement manufactured homes. Other standards include requirements that the homes have roofs with a minimum 3:12 pitch, that

the homes be attached to a permanent foundation, that the siding of the manufactured homes be similar to that used on site built homes, and that the towing apparatus be removed.

The Planning staff and the Planning and Zoning Commission both recommend the amendment.

Mr. Green responded to questions from Councilman Swicegood on manufactured vs. modular homes.

Mayor Martin closed the public hearing at 4:18 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2190. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2190 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 31

C. **PUBLIC HEARING RELATIVE TO EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA LOCATED WEST ON OVERLOOK ROAD AND KNOWN AS THE HOLT AT BILTMORE PARK AND GLEN OAKS 1 AT BILTMORE PARK**

ORDINANCE NO. 2191 - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA LOCATED WEST ON OVERLOOK ROAD AND KNOWN AS THE HOLT AT BILTMORE PARK AND GLEN OAKS 1 AT BILTMORE PARK

Mayor Martin opened the public hearing at 4:19 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that Biltmore Farms Inc. has submitted a petition for the annexation of an area located west of Overlook Road - Biltmore Park, Section 5. The area petitioned for annexation consists of 39.054 acres and is adjacent to the existing corporate limits. This annexation is adjacent to the first four sections of Biltmore Park recently annexed by the City. The applicant has requested that the effective date of annexation be set for six months after adoption of the annexation ordinance which will be August 21, 1995.

Mayor Martin closed the public hearing at 4:21 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2191. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2191 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 35

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2188 - SECOND READING OF AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING NONCONFORMING SIGNS

Mayor Martin stated that Councilman McClure had requested that the second reading be postponed until he arrived at the meeting. Vice-Mayor Peterson moved to postpone the second reading of Ordinance No. 2188 until Councilman McClure was present. This motion was seconded by Councilwoman Sitnick and carried unanimously.

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-20 - RESOLUTION REVISING CERTAIN USER FEES

Mr. Bob Wurst, Audit/Budget Director, said that staff met with a committee of Council in August 1994, and reviewed recommendations for fee increases and new fees in several areas. City Council adopted those recommended fee changes in August. City staff has since met with the Council committee several times to review additional fee recommendations. The City's Fees and Charges Manual will need to be amended to include increases of existing fees or implementation of new fees in the Public Works Department and the Parks and Recreation Department. These fee adjustments will be implemented on July 1, 1995, except for the removal of the cap for street cut permit fees which shall be effective immediately.

He said the street cut permits are in line with regard to the cost of the program, so we will generate a little over $300,000 in revenue which is very close to the cost of administering the program. Revenues and expenses will be monitored and if they need to be revised in the future, we will come back to Council.

He said the other change is in the area of Parks and Recreation. The reason for the larger increase at Stephens-Lee was the time it took to set up for events there because they don't have enough chairs, tables, etc. We decided that was true of all locations and we don't recover the cost for rental of any recreation center. Therefore, the Committee agreed to drop back to $200 which is in line with the other recreation centers for this type of use. Also, in addition to the flat rental of $200 for each facility that has a gym, the Parks and Recreation Advisory Committee may require a $50.00 deposit, refundable if the group cleans up the facility after the event.

When Councilman Swicegood questioned the $25 white good collection fee and would it make people dump illegally just to get out of paying the $25 charge. City Manager Westbrook said that responsible people will pay the fee and the irresponsible people will continue to dump them illegally.

Mr. Ray Kisiah, Director of Parks and Recreation, said that this offering to groups of clean-up is not new - they have been doing that for several years at Memorial Stadium and it works quite well. The details will be worked out by the Parks and Recreation Advisory Board. The Advisory Board did vote in principle to support the charges with the specific details to be worked out at their March meeting.

A member of the Parks and Recreation Advisory Committee stated that the Committee did support the majority of the fees being raised, however, they noticed that the fee for Stephens-Lee Recreation Center

was doubled. He said he would have no problem with that if the facility was standard, however, it is a building that was almost condemned which sits in a predominately black neighborhood. He felt that fee was unjust. He realized that Council has allocated money to renovate that Center but still feels that $200 is too much. He felt like the cleaning up charge should be included in the $200 rental fee since they are being paid to clean up. He asked Council to investigate the fee for the Stephens-Lee Recreation Center further.

Mr. Everette Parrish also felt that the fee at Stephens-Lee Recreation Center was much too high in its present condition since it has little to offer the citizens. He pointed out the heating and cooling problems, the no handicapped accessibility and the bathrooms are deplorable.

Upon inquiry of Mayor Martin, Mr. Kisiah said that the average fee for this Center is approximately $175 per occasion. He suggested Council give the Advisory Board policy guidelines and let them work out the details, for example, if Council's intent is to recover the costs, then they can certainly document the cost.

Vice-Mayor Peterson stated that the City is losing money at all of its recreation centers and even with the fee increases, the City will still lose money. He said the Council all agree that Stephens-Lee in it's present condition is not a good center, however, the basketball court is in very good shape and Council is allocating money for renovations. He stressed again that all the centers are being charged the same amount.

Councilman Swicegood felt the $200 fee was very fair and even a bargain compared to the rental fees charged by other facilities in the area. He too noted that Council has allocated money towards renovation of the Center.

Some discussion surrounded the cost for renting tables and chairs and costs associated with hauling them from center to center.

Councilman Watts also felt that the fee at Stephens-Lee Recreation Center was too high for its present condition.

When Councilwoman Sitnick asked how many times this Center was rented, Mr. Kisiah said that it was rented nine times with special occasion permits. He did note that if the City co-sponsors an event, there is no fee and also noted that alcoholic beverages are not permitted with the City co-sponsors an event.

Councilwoman Sitnick stated that this Council is committed to improving the Stephens-Lee Recreation Center. There is no doubt that we honor its history and its importance to the citizens of the City. As far as alcohol and youth, I have a serious problem. Ray has assured me that when the City sponsors events at the centers that there is no alcohol. I went on record last week at our worksession as being very disturbed at the fact that we sold beer at the circus at the Civic Center. I consider this the same thing. I think it's a bad precedent and a bad message, so I concur that when you have young people around - the best example is not to have alcohol served. What we tried to do on the User Fee Committee was to be fair and that was the word that we used most often. I want to thank Councilman Watts for bringing to our attention last week the fact that an increased charge for the Stephens-

Lee Center was not fair - and we've agreed to make that charge equal across the City. I assure you that the commitment of this Council is to do whatever we can to find funds and to continue our commitment to improving the Stephens-Lee Center.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-20. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 195

B. ORDINANCE NO. 2192 - ORDINANCE AMENDING CHAPTER 15.5 (STORMWATER MANAGEMENT) OF THE CODE OF ORDINANCES

Mr. Harold Huff, City Engineer, explained that the stormwater ordinance and associated standard specifications manual were adopted by Council on June 7, 1994, and became effective July 1, 1994. After seven months, it is apparent that minor alterations to various sections of the ordinance may from time to time, on a case by case basis, be desired by both the designing professional and the City Engineer. He recommended the ordinance be amended to address situations of a minor nature which may occur in the future. This would preclude the need to schedule appeal or amendment for City Council's consideration each and every time a minor change is proposed.

Mayor Martin said that members of Council have previously received a copy of the ordinance and the resolution and they would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2192. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2192 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 38

C. ORDINANCE NO. 2193 - BUDGET AMENDMENT RELATIVE TO MINORITY BUSINESS PROGRAM FUNDING

Mr. Larry Fisher, Finance Director, said that this budget amendment, in the amount of $89,910, will establish the 1994-95 appropriation for administration of the Minority Business Program of the City.

In May 1994 HUD informed the City by letter that the Minority Business Program was no longer eligible for funding with CDBG program funds. After much discussion, City Manager Westbrook has decided that the program can be run most effectively from the Finance Department, Purchasing Division.

At this time, 5:00 p.m., Councilman McClure arrived at the meeting.

Ms. Marilyn Bass, Minority Business Coordinator, answered various questions by Council relative to the City's progress in reaching its goals and the process involved with vehicles go out for bid.

Councilwoman Sitnick, who is liaison to the Minority Business Commission, said that the disparity study can point out that racism still scars our land. The Minority Business Program can only go so far in ensuring fair, balanced, even-playing field for everybody. I think it takes a greater commitment on the part of the City, on the part of the citizens in the City, to see to it that there's an even-playing field. To address the concerns that still exist regarding the program being moved into the Purchasing Division, I have confidence that staff has made every effort to see to it that the program is maintained and maybe elevated to a higher level. My concern is the monitoring of whether or not the program is working. That's the bottom line. It's fine to have paperwork and studies and staff and ideas about moving programs and maybe finding different sources for funding, but the idea is to make sure that it's actually doing what it's supposed to do. The bottom line here is going to be monitoring. I would like to be clear that it is my feeling that since this is new funding, since this is in a new place, that the monitoring, especially at the out-set, should be frequent, should be often, should be reported back to Council so that we can make sure our commitment to the Minority Business Program and to the findings of the disparity study are really working and not just working on paper.

Councilwoman Field, who has served on the Minority Business Commission and also who served as liaison to the Commission, stated that she had tremendous confidence in Ms. Bass and stated that the City's compliance with the Minority Business Plan has increased since Ms. Bass was hired.

Mayor Martin said that members of Council have previously received a copy of the ordinance and the resolution and they would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2193. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2193 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 39

III. UNFINISHED BUSINESS:

A. ORDINANCE NO. 2188 - SECOND READING OF AN ORDINANCE TO AMEND THE ZONING ORDINANCE REGARDING NONCONFORMING SIGNS

Mayor Martin stated that the first reading of this ordinance was held on February 7, 1995.

Ms. Julia Cogburn, Planning Director, briefed the Council by saying that on December 7, 1994, the Planning and Zoning Commission reviewed and approved with a vote of 4-3 a proposed wording amendment to the Zoning Ordinance regarding nonconforming signs. This wording amendment was prepared by staff at the request of the Asheville City Council. The wording amendment grandfathers in all nonconforming signs which comply with the regulations of the City's Sign Ordinance which was adopted in October of 1977. Currently, these signs are subject to coming into compliance ("amortization") in 1997.

Council approved the ordinance on the first reading at its meeting February 7, 1995. Since that time a question came up as to the

potential effect of the ordinance amendment on signs not in compliance with the specifications of the 1977 ordinance but grandfathered by that ordinance.

Council looked at two alternates for clarifying this issue at a worksession on February 14, 1995. Council agreed that the intent of the amendment on nonconforming signs was not to grandfather in signs which did not conform with the 1977 ordinance but which were grandfathered by it. The following statement will clarify this point and is found in Section 30-9-10.B "Non-conforming signs and signs deemed conforming which were allowed to remain by the sign regulations adopted as part of the readoption of Ordinance No. 322, effective October 21, 1977, shall not be allowed to remain in accordance with the provisions set forth herein and shall be made conforming or removed no later than August 28, 1995.

The draft approved by the Planning and Zoning Commission also recommends that language be added which allows for repainting, changing the message, or changing the panels on all nonconforming signs. Currently, signs must come into compliance when such changes or alterations are made. The Planning and Zoning Commission voted 4-3 to recommend the ordinance to you.

Staff recommends that Council amend the amendment on nonconforming signs, prior to taking a second reading on its passage. No new public hearing is required.

Mayor Martin commented that he personally has no problems with on-premise signs but felt the City needed to get a handle as soon as possible on the large billboards.

Councilwoman Sitnick said that it would be her wish that at some point in the future we could eliminate the use of billboards in historic districts. Historic districts create a whole different attitude in the City, they are certainly important to the tourism industry and perhaps in the future the Council might consider a way for us to, over a period of time, eliminate the use of billboards in historic districts.

Councilwoman Field felt that when the original sign ordinance was going through the process she spoke, as a representative of the Downtown Association, regarding on-premise signs in the downtown community and feared that perhaps the sign ordinance was too strict. It was very difficult to get a sign ordinance that we could at least pass so there are some things that those of us who were part of the downtown let go, and felt that they'd worry about them later. Whatever happens at this meeting, we do need to take a look at some minor glitches in the on-premise sign parts in the sign ordinance. She offered to be a part of that if it happens. The sign ordinance isn't perfect by any means, and in her opinion, if you look at this community now based on what it looked like seven years ago, it is much better and she didn't think anybody has gone out of business because of their sign. The City looks better and we have a very fine community here and she certainly supports the sign ordinance that we have.

Councilwoman Field moved to amend Ordinance No. 2188 to specify that the signs grandfathered by the 1977 ordinance will not be grandfathered by this ordinance. This motion was seconded by Councilwoman Sitnick and carried unanimously.

On a roll call vote of 4-3 (with Mayor Martin and Councilwomen Field and Sitnick voting "no"), Ordinance No. 2188, as amended, passed on its second and final reading.

ORDINANCE BOOK NO. 15 - PAGE 26

V. CONSENT:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 7, 1995, AND THE WORKSESSION HELD ON FEBRUARY 14, 1995**

B. **RESOLUTION NO. 95-21 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO DISPOSE OF APPROXIMATELY 3 TONS OF SCRAP METALS BY SEALED BID**

Summary: The Water Resources Department has requested the Purchasing Division to sell approximately 30 tons of assorted scrap metals that are currently stored at their facility on South Charlotte Street.

RESOLUTION BOOK NO. 22 - PAGE 198

C. **RESOLUTION NO. 95-22 - RESOLUTION AUTHORIZING THE PURCHASE OF PROPERTY FROM BRIAN K. BAILEY AND WIFE, BONNIE BAILEY**

Summary: This action is for approval of a lot adjacent to the Harvest House facility on Kenilworth Road from Brian K. Bailey and wife, Bonnie Bailey. In 1993, a proposal was made to sell the lot to the City for $1,000. At that time, the lot had a tax value of $2,200. The City Council at that time was agreeable to the proposal, except that there was a title defect which prevented the Baileys from giving the City clear title to the property. That defect has now been cleared up. The tax value of the lot has increased from $2,200 to $3,200. The acquisition of this lot would enhance the Harvest House facility by adding additional open space for buffer.

RESOLUTION BOOK NO. 22 - PAGE 200

D. **RESOLUTION NO. 95-23 - RESOLUTION ESTABLISHING A NEW POLICY AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND AWARD BIDS**

Summary: This policy will authorize the City Manager, or his designee, to sign all contracts, memorandums of understanding, agreements and other documents which may obligate the City up to an amount of $30,000 under the following conditions: (1) the funds being obligated by the City Manager are budgeted and not encumbered; (2) all applicable federal, state and local laws and ordinances are complied with procuring the service or goods; and (3) any contract or obligation executed by the City Manager under this policy will be reported to the City Council no later than its next regularly scheduled meeting.

RESOLUTION BOOK NO. 22 - PAGE 201

E. **RESOLUTION NO. 95-24 - RESOLUTION AUTHORIZING SUBMISSION OF A HOME INVESTMENT PARTNERSHIPS PROGRAM APPLICATION AND A COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION FOR FISCAL YEAR 1995-96 PROGRAM FUNDS**

Summary: The City of Asheville currently owns a 17.282 acre tract of land adjacent to the Meadows Apartments. This property is zoned R-3 and was originally scheduled to be developed into the Meadows II Apartments during the mid to late 1970s. Since the City's acquisition

in 1981, the property has remained unimproved. The City has a deeded right-of-way across the Meadows Apartments to the Meadows II property and should be able to grant access to subsequent property owners.

The Community Development Division would subdivide this property into buildable lots upon which pre qualified low- and moderate-income families would construct single-family, detached houses of approximately 1100 square feet per house. It is anticipated this development will contain a total of 36 housing units, and will be constructed over two phases of 18 units each. Qualified families will have incomes between 55% and 80% of the area's median income, and will own the houses in fee simple title. Private bank financing, interim and permanent, will be sought and blended with the public funds.

RESOLUTION BOOK NO. 22 - PAGE 203

F. RESOLUTION NO. 95-25 - RESOLUTION FINDING THE SONDLEY ESTATES PROJECT, CONSISTING OF SONDLEY PARKWAY, SONDLEY DRIVE, SONDLEY WOODS PLACE, SONDLEY DRIVE SOUTH AND SONDLEY DRIVE EAST, COMPLETED, ASSESSING THE TOTAL COST AND CALLING FOR A PUBLIC HEARING ON MARCH 7, 1995, ANNOUNCING THE COMPLETION OF THE PRELIMINARY ASSESSMENT ROLL

RESOLUTION BOOK NO. 22 - PAGE 204

G. RESOLUTION NO. 95-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR RECYCLING DROP CENTERS

Summary: On February 7, 1995, the City Council adopted a budget amendment which added two new recycling centers to the two that the City already sponsors. This resolution will authorize the City Manager to enter into agreements to continue to support the City's recycling drop center program. Once the resolution is adopted, the City will enter into an agreement with ABC Recycling who will then be able to move the new recycling centers into place.

RESOLUTION BOOK NO. 22 - PAGE 206

Councilwoman Field moved to approve the Consent Agenda. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. CHANGE IN COUNCIL MEETING DAY AND TIME

Vice-Mayor Peterson reminded the Council that at the next formal meeting he would move to change the day and time the City Council meets so as not to conflict with the Buncombe County Commissioners meeting day and time.

Councilwoman Sitnick thanked Vice-Mayor Peterson for bringing this matter to a vote since she has been asking for this change for several years.

It was the consensus of Council to bring this matter up at the next scheduled worksession.

B. WORKSESSIONS BEING OPEN TO PUBLIC

Councilwoman Sitnick read Section 9 out of the City Charter which deals with meetings being open with opportunity for citizens to be heard. She felt that perhaps there was less attendance at the Council's worksessions because the citizens don't realize there is an informal worksession in between formal meetings. She felt it was important for us to get the word out through the media or to announce it at the formal City Council meetings so that citizens know that at worksessions they also have a reasonable opportunity to be heard. She asked staff to make an attempt to let the citizens know they are welcome at Council's worksessions and that they will have an opportunity to be heard.

C. ANTHONY FISHER - INSPECTIONS COMPLAINT

Mr. Anthony Fisher, Controller for Wholesale Glass and Mirror, by use of pictures, explained to the Council a serious concern he has relative to the conduct of City employees. He asked that the Council investigate his concerns.

City Attorney Slawter said that he would be happy to meet with him concerning this matter.

D. COMMENTS BY RALPH BISHOP

Mr. Ralph Bishop felt that this Council and previous Councils have not upheld their oath of office.

E. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of February 2-8, 1995: Mary Ellen Miller (Sanitation) and Lamont J. Baird (Police).

He said the following claims were received during the week of February 9-15, 1995: John Tim Kast (Water), David Vinciguerra (Water), Heather Rogers (Streets), Stephanie Parker (Water) and Bernard Arghiere (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

F. LAWSUITS

City Manager Westbrook said the following lawsuit has been received by the City on February 7, 1995: County of Buncombe v. Wanda Renee Coleman and husband, Isaac Franklin Coleman, Property Owners, et al. (tax foreclosure).

He said that this has been referred to the appropriate legal counsel for action.

G. CLOSED SESSION

At 5:40 p.m., Councilman Swicegood moved to go into closed session to discuss legal matters. This motion was seconded by Councilwoman Field and carried unanimously.

At 7:50 p.m. Councilman Swicegood moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:52 p.m.

Magdalen Bonneson
CITY CLERK

MAYOR

Tuesday - February 28, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (arrived 2:15, left at 3:00, returned at 4:15), Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood (arrived at 2:35); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital regarding knee problem)

CAROLINA POWER AND LIGHT'S AFFORDABLE HOUSING PROGRAM

Mr. Gary Ashburn, CP&L's District Manager, and Murray Gould, Treasury Department/Manager-Tax, presented Council with a program which stimulates affordable housing within communities in their service area.

It was the consensus of Council for the City Development Office to work closely with CP&L to explore ways to match various types of resources with CP&L's interest and to stimulate redevelopment in target neighborhoods.

TRANSFER OF REDEVELOPMENT AND REHAB FUNCTIONS TO CITY OF ASHEVILLE FROM THE HOUSING AUTHORITY

Ms. Julia Cogburn, Planning Director, updated the Council as to the progress of the transfer of the redevelopment and housing rehabilitation functions of the City from the Housing Authority to the City of Asheville and to the Community Development Division of the Planning Department. Staff is currently targeting that these functions, historically carried out by the Housing Authority of the City of Asheville, be transferred with an effective date of July 1, 1995.

Ms. Cogburn pointed out that a budget amendment in the amount of $43,000 would be required to cover some one-time expenditures which will result from the transfer.

It was the consensus of Council that the Council should be very involved in this process because the whole point of bringing back the Redevelopment Commission back to the City is to be able to be more involved and more accountable.

The Council agreed to have the Housing and Community Development Committee consist of Vice-Mayor Peterson, Councilwoman Field, Councilman Watts, and City staff Julia Cogburn and Marvin Vierra.

Councilwoman Sitnick expressed concern over the workload of the present staff and wanted to be kept abreast of any concerns the staff had.

It was the consensus of Council to proceed with all appropriate actions at the next formal meeting.

PETITION TO CLOSE PORTION OF RESERVOIR ROAD

Mr. Larry Ward, Acting Public Works Director, stated that a petition has been received from Jan Howard and the Kenilworth Residents Association Board requesting that a portion of Reservoir Road be permanently closed.

The petition submitted included 131 signatures; 16 live in the general area of the portion of Reservoir Road being petitioned to be closed; one owns property adjoining the portion to be closed; and four live in the direct vicinity of the closing. Three properties in the direct vicinity of the closing have not signed the petition. It is alleged that a representative of St. Joseph's Hospital signed the petition but on the petition form submitted no indication of this is made. St. Joseph's Hospital property joins the portion of the road requested to be closed.

After discussion of which areas the road serves, the pros and cons of closing that portion, etc., the Public Works staff recommended denial of the petition to close that portion of Reservoir Road. The reasons for denial are that Reservoir Road is a through street that is necessary to conveniently accomplish certain trips for residents in the area; and the road provides alternate access to a number of properties in case of emergencies, such as fire or other catastrophes. The Public Works staff, however, does recommend that the speed limit along the narrow and curving sections of Reservoir Road be reduced to 15 miles per hour and that strict enforcement of the speed limit be conducted, especially during peak hours.

It was the consensus of Council to place this matter on Council's next formal meeting agenda for consideration.

SUMMER YOUTH PROGRAM

Ms. Roxie Wynn, Assistant Personnel Director, briefed the Council on the last three years of the Summer Youth Program, stating that in 192 the total direct program costs were $63,121, in 1993 total costs were $87,943 and in 1994 total costs were $83,480. City staff recommend Council fund the program at $50,000 which includes the hiring of a Program Administrator (hired to work May-August), a youth counselor and approximately 20 youth. Clerical support will continue to be provided by existing personnel staff.

Councilwoman Field suggested some type of survey be sent to the graduates who were in the program to see if the summer job helped them in the job market.

Councilwoman Sitnick expressed concern over the declining number of youth that have participated in the program over the last three years - 76 in 1992, 61 in 1993 and 59 in 1994. She felt that a problem might be from the standpoint of the commitment of the program for targeting youth people, not Council's commitment to help the youth.

Vice-Mayor Peterson volunteered his time to be the Council liaison to the summer youth program, which would entail, among other things, seeing first-hand the youth at work. He would then report back to the Council his findings.

Councilman Swicegood felt that the program should not only benefit the youth, but the City should benefit too.

Councilwoman Sitnick expressed concern that the first year we had 500 at-risk youth applying to work and the City didn't have the ability to provide the jobs. She suggested staff work with the community and other agencies to try to obtain some employment for these youth who are willing to work. She also suggested staff work with the N.C. Center for Creative Retirement to see if they have members who might be able to supervise the youth and possibly provide clerical assistance to the City as it relates to the program.

It was the consensus of Council to have the Personnel Department proceed with the Summer Youth Program at $100,000 funding and explore other areas in the community regarding providing jobs to the youth. The City Manager was instructed to bring specific information back to the Council at the next worksession.

ADOPTION OF CITIZEN PARTICIPATION PLAN

Mr. Marvin Vierra, Community Development Director, said that HUD requires the City to adopt a Citizen Participation Plan that describes citizen participation in the consolidated planning process for CDBG and HOME funding grants.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

IMPROVEMENTS AT MIDDLEBROOK ROAD AND OLD HAW CREEK ROAD

Ms. Elizabeth Graham, Chairman of the Planning and Zoning Commission, stated that on February 15, 1995, the Commission voted to request that the City Council give a high priority to the completion of improvements to the intersection of Middlebrook Road and Old Haw Creek Road. This request is in response to comments at the public hearing for the preliminary plat of Royal Palms Subdivision.

According to earlier records, a plan for a new alignment at this intersection, prepared by the City Engineering Division in 1981, proposed to relocate the intersection approximately 20 feet south of its present location to provide for adequate sight distance. This was undertaken at the request of concerns from nearby residents. Right-of-way for the project was purchased, however, the intersection was not completed.

In 1988, the 200 unit Carolebrook Apartments were approved for the identical site that the Royal Palms Subdivision is now going to use. A condition of the approval of the apartments in 1988 was that the developer was to fund 50% of the cost to the improvement at the intersection. The developer did not proceed with the project and the intersection was not completed by the City. City funds for the project have been reprogrammed and are no longer listed in the Capital Improvement Plan. The approval of the preliminary plat for the Royal Palms Subdivision again raised the concern of the public, the Public Works Department and the Commission for a resolution of the project.

The Commission recommends that the intersection improvements be completed as soon as possible. The latest cost for the improvements is estimated by the Public Works Department to be $40,000.

It was the consensus of Council to look at the intersection improvements at Middlebrook Road and Old Haw Creek Road in the budget process and prioritize it accordingly.

Motorola Console Upgrade

Mr. Bob Wurst, Audit/Budget Director, said that the 1993/94 Capital Improvements Program ("CIP") Police budget had an appropriation of $58,000 for an upgrade to one of the Police communication consoles. This upgrade allows the telecommunicators to be more responsive and able to monitor their communication more effectively. A change order to our Motorola radio contract was approved in January of 1994. We expected the equipment to be installed and paid for in May of 1994. However, the equipment installation was delayed until July of 1994 and the funds were

not encumbered. This delay means that the payment for this equipment occurred in the 1994/95 fiscal year.

Since the payment for the equipment was made against the 1994/95 CIP budget, this purchase will make the Support Division of the Police capital budget go over if we proceed with all planned purchases for this year.

However, since the money originally budgeted for this purchase was not spent in 1993/94, it reverted to fund balance. Therefore, Council can reappropriate the $53,000 needed to pay for this equipment in the 1994/95 fiscal year.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

MID-MARCH WORKSESSION

City Manager Westbrook explained that the next scheduled worksession was Tuesday, March 14, 1995, however, the majority of Council would be out of town on that date. Due to the new procedure of items coming before the Council on a worksession prior to the formal meeting, staff has requested that the next worksession be held on Thursday, March 16, 1995.

Councilwoman Sitnick expressed regret that she had made prior plans to be out of town March 10-19, 1995, based on the Council calendar that showed there would be no meeting of the Council that week. City Manager Westbrook apologized stating that this new procedure would streamline the Council's formal meetings and regretted that a worksession needed to be scheduled during the time she was away. He said that he would be happy to fill her in on the details of the worksession and City Clerk Burleson said she would make the tapes available to Councilwoman Sitnick if she wished to listen to the worksession dialog.

CHANGE CITY COUNCIL MEETING DAY AND TIME

Vice-Mayor Peterson said that he intended, at the next formal meeting, to move that City Council change their meeting day and time so as not to conflict with the Buncombe County Commissioners meeting day and time. Councilwoman Sitnick said that she would second the motion and has been advocating this change for several years.

Mayor Martin stated that Councilman McClure (who had to leave the meeting for a previous appointment) asked him to relay to the Council that he preferred to keep the meeting day Tuesday.

City Clerk Burleson stated that Councilman Watts asked that she also relay to the Council that he preferred to keep the meeting day on Tuesday, for various reasons, some being that this Council has been meeting on Tuesday for 1-1/2 years and has had some of the highest attendance at meetings, Thursday evenings school activities are scheduled, Wednesday nights are prayer meetings, and Mondays and Fridays are generally holidays.

Councilman Swicegood also supported keeping the City Council meeting day on Tuesday. He stated that major Council items are scheduled later in the evening.

Vice-Mayor Peterson said that throughout the campaign there was positive talk from all candidates about moving the meeting day and time.

Councilwoman Sitnick said that she continually receives calls from people wanting to attend both City and County meetings and agreed with Vice-Mayor Peterson about the campaign promises. She said that if the majority of Council did not want to move the day, she would be satisfied that it remain on Tuesday with a starting time of 7:30 p.m.

It was the consensus of the Council that Councilmen McClure and Watts be present when this item is placed on the next formal meeting agenda for consideration.

CONSENT AGENDA

- **ACCEPTANCE OF CERTAIN STATE SYSTEM STREETS IN THE ENKA ANNEXATION AREA AS CITY SYSTEM STREETS**

Summary: Upon annexation of new areas into the City of Asheville, NC DOT requires that the City accept certain State roads in the area as City System Streets.

- **CONTRACT TO AUDIT CITY ACCOUNTS**

Summary: General Statutes require that local governments of NC have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. Staff recommends audit firm of Crisp, Hughes & Co., LLP.

- **URBAN TRAIL GRANT PROPOSAL TO THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA**

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the Community Foundation of Western North Carolina in the amount of $5,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

- **URBAN TRAIL GRANT PROPOSAL TO THE NORTH CAROLINA ARTS COUNCIL**

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Arts Council in the amount of $8,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

- **BIDS FOR PRISONER TRANSPORT VEHICLE FOR THE POLICE DEPARTMENT**

Summary: Two bids were received, however, on February 23, 1995, nine days after the bid opening date, the low bidder, Matthews Ford, Asheville, N.C., made a written request to withdraw their bid. Staff recommends that award of bid be made to the second low bidder, Sirchie Finger Print Labs, Inc., Medford, N.J., for one 1995 Ford, E350 Commercial Cutaway Cab and Chassis with a 1995 Supreme/Sirchie Group Body for a total bid of $41,437. (Sirchie's bid is $37 higher than the low bid).

- **BIDS FOR UPGRADE OF SL1-N TELEPHONE SWITCH**

Summary: Three bids were received. Staff recommends award be made to low bidder, Business Communications Inc., Greensboro, N.C., for the purchase of the specified upgrade in the amount of $24,189.

- **DEMOLITION OF 17 RIDGE STREET**

Summary: 17 Ridge Street is a dilapidated structure. The owner(s) have not responded to the order of the Chief Code Enforcement Officer to repair or demolish this structure. The Fire Department Building and Life Safety Division asks City Council to set a public hearing to direct the demolition of 17 Ridge Street.

- **DEMOLITION OF 106 BURTON STREET**

Summary: 106 Burton Street is a dilapidated structure. The owner(s) have not responded to the order of the Chief Code Enforcement Officer to repair or demolish this structure. The Fire Department Building and Life Safety Division asks City Council to set a public hearing to direct the demolition of 106 Burton Street.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

SCHEDULING OF WORKSESSION ITEMS

Upon request of Councilwoman Sitnick, City Manager Westbrook explained the process of scheduling items on the City Council's worksessions. Councilwoman Sitnick expressed concern over her having to get the approval of the entire Council to get an update on the Broadway Project on their worksession agenda.

CLOSED SESSION

At 4:20 p.m., Vice-Mayor Peterson moved to go into a closed session to discuss a legal matter. This motion was seconded by Councilman Swicegood and carried unanimously.

At 4:55 p.m., Vice-Mayor Peterson moved to come out of closed session. This motion was seconded by Councilman Swicegood and carried unanimously.

SCHOOL BOARD INTERVIEWS

The City Council interviewed the following individuals for the two vacancies on the Asheville School Board: Hugh McCollum, Roy Harris, Brian Weinkle, Larry Wilson, Carol Collins and Linda Eubanks.

Mr. James Baten, who was scheduled for an interview, wrote Council a letter stating that he had aorta bi-femoral bypass surgery on Tuesday, February 14, and regretfully because of his medical problems, could not meet the required answer/interview schedule. In his letter he did assured Council that he was deeply interested in being considered for the position and welcomed an opportunity to share in an interview/answer session or any other alternative procedure the Council deemed appropriate.

ADJOURNMENT

Mayor Martin adjourned the meeting at 7:00 p.m.

CITY CLERK

MAYOR

Tuesday - March 7, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital) - At certain times, Councilman Watts was able to participate in the meeting by use of a speaker phone. At those times, it will be noted.

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-27 - RESOLUTION TO RETIRING EMPLOYEE RONNIE METCALF

City Manager Westbrook read the resolution stating that Ronnie Metcalf has been an employee for 17 years and has requested retirement from his position as Stock Clerk in Fleet Management Division of the Finance Department. He expressed City Council's appreciation to Ronnie for his service to the City of Asheville and its citizens.

Resolution No. 95-27 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 207

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE SONDLEY ESTATES PROJECT, CONSISTING OF SONDLEY PARKWAY, SONDLEY DRIVE, SONDLEY WOODS PLACE, SONDLEY DRIVE SOUTH, SONDLEY DRIVE EAST AND SONDLEY DRIVE NORTH

RESOLUTION NO. 95-28 - RESOLUTION CONFIRMING THE PRELIMINARY ASSESSMENTS MADE IN THE SONDLEY ESTATES PROJECT, CONSISTING OF SONDLEY PARKWAY, SONDLEY DRIVE, SONDLEY WOODS PLACE, SONDLEY DRIVE SOUTH, SONDLEY DRIVE EAST AND SONDLEY DRIVE NORTH

Mayor Martin opened the public hearing at 4:08 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Bob Wurst, Audit/Budget Director, said that the Sondley Estates Street and Drainage Improvement project is complete. The total project cost is $421,014. Property owners have agreed to be assessed $100,000 which results in a per foot assessment rate of $4.85. The footage of corner lots and lots with frontage on non-adjacent roads was divided by two so as not to penalize those lots.

Upon adoption of the assessments by Council, the approved assessment roll will be provided to the Tax Collector for collection. Property owners will have the opportunity to pay the assessment in full or it will be billed over ten years with 8% interest.

Mayor Martin closed the public hearing at 4:10 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-28 at 4:10 p.m. This motion was seconded by Vice-Mayor Peterson and carried unanimously (6-0 with Councilman Watts not participating).

RESOLUTION BOOK NO. 22 - PAGE 208

III. UNFINISHED BUSINESS:

A. *RESOLUTION NO. 95-29 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH BUNCOMBE COUNTY FOR THE PURCHASE AND OPERATION OF THE CRIMINAL JUSTICE INFORMATION SYSTEM*

Councilman Watts was able to participate in this portion of the meeting via speaker phone.

City Manager Westbrook highlighted the agreement by saying that the agreement is for seven years beginning July 1, 1995, and the system has to be fully operational by June 30, 1996. If the system is not fully operational at that time then the County will be responsible for the continued funding of the current Criminal Justice Information System (CJIS) Program. The system will be the specific responsibility of the County in every respect and the City will be paying for service. The system must be up and operational 98% of the time, 24 hours a day, 365 days a year. The CJIS Executive Board will become the CJIS Advisory Board (in order to make sure the City concurs with any grants). The agreement contains language about what happens to the equipment if the agreement terminates after seven years, and in all cases the City would be able to get their share of the market value at that time plus the information off the software in order to start our own system. The City would be responsible for 45% of the debt of the operational cost of the CJIS system. Currently the City is responsible for 50%. At 50%, the City's annual proportion would have been $622,000, but through negotiations, the City's portion is now at 45% down for a cost of $341,000. The current budget in 1995 is $185,000 for this program. In the first year, 1996, there will be some duplication because there will be a transition period when both systems will be operating. There will be some additional costs there but after that, the annual cost should be approximately $341,000. Since current funding is at $185,000 and the recommended funding is at $341,000, therefore, there will be an additional cost of approximately $156,000 per year.

Councilman Swicegood voiced support for the system but was concerned that not only will the City and the County be using the system, but also the Administrative Office of the Courts. He felt the City should only be funding 1/3 of the system and questioned why court system was not putting in their share, especially since they have a member on the committee. He also noted that it's the County's responsibility to run the jail and the court system. He felt he could not support the City's funding at 45%.

City Manager Westbrook explained that basically the court system of the state doesn't want to participate in it although they are going to use the service. Currently they participate in it but it's still 50-50 between the City and the County. They look at the number of warrants

issued and over half of the warrants that are issued or the paperwork that flows is generated by Asheville, therefore, if you look at it from the generation of the input that goes into the system, the City is getting more than it's share.

Councilwoman Sitnick questioned if there a provision in the agreement about what will happen in a few years should this system or the software become incompatible or obsolete. Is there a provision for a breakdown of who will pay for additional costs in the operational or equipment that might come up due to the quickly changing nature of technology?

Mr. Larry Bopp, Information Services Director, said that this is a long term investment. The computer technology that we are investing in is state of the art and the system is an open system that can be upgraded at any point in time after seven years, if it needs to be upgraded. The City won't have to spend a large amount of money to buy a brand new or a different computer. As far as the applications we are purchasing, the vendor will continue to make improvements to those applications through time and the City can have improvements made at the end of that seven year period if it needs to.

Upon inquiry of Councilwoman Field, City Manager Westbrook explained that while the state will not participate now, we are moving forward to trying to get some state participation on a grant basis, rather than on an on-going basis.

Councilman McClure questioned the three member board, one member which represents the court system. He expressed concern about them having a member on this board, but not participating financially.

City Manager Westbrook said the contract sets the committee up in an advisory capacity so their only duty will be to advise the information management directors of the City and the County on matters. The Committee will have no formal duties at all, it's more of a coordination factor with the court system.

Police Chief Will Annarino explained how the CJIS system would be a benefit to the community and why it's needed.

Councilman Watts said that this is an urgent system that we need if we're going to compete with other cities. He supported going forward with the system.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for adoption of Resolution No. 95-29. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Councilman Swicegood voting "no".

RESOLUTION BOOK NO. 22 - PAGE 209

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-30 - RESOLUTION OF INTENT TO CLOSE A PORTION OF RESERVOIR ROAD

Councilman Watts was participating in this matter via speaker phone.

Mr. Larry Ward, Acting Public Works Director, stated that a petition has been received from Jan Howard and the Kenilworth Residents Association Board requesting that a portion of Reservoir Road be permanently closed.

The petition submitted included 131 signatures; 21 live in the general area of the portion of Reservoir Road being petitioned to be closed; one owns property adjoining the portion to be closed; and four live in the direct vicinity of the closing. Three properties in the direct vicinity of the closing have not signed the petition. Also, a representative of St. Joseph's Hospital, which property joins the portion of the road requested to be closed, signed the petition.

Reservoir Road serves as a through connecting road from Biltmore Avenue via Granby Street, Buchanan Road, to Windswept Drive and Alexander Drive. This through route may also be accomplished via Forest Hill, Thurland and Sherwood Road.

The portion of Reservoir Road requested to be closed averages 12 feet in width and has an average 24-hour traffic of 347 vehicles. During the peak hours, approximately 50 vehicles utilize the road per hour. The speed limit is 35 with 10 mph advisory signs in the curve portion. A speed study has been performed upon the section of road and the recommended speed limit is 15 mph. The roadway has a right-of-way width of 30 feet.

The petitioners petitioning the road closure all own property between the closure and Biltmore entrance which means their access would not be affected. The owners at property beyond the area petitioned to be closed have not signed the petition. The closure would limit their access to Alexander Drive and Windswept. Alexander Drive provides adequate access to the Windswept Drive area as well as the Windswept Condominiums and the Wind-in-the-Oaks Condominiums. These property owners would have direct access to the downtown, north, west and east section of Asheville via Alexander Drive. Their access to the south via Alexander Drive would be very indirect and would require approximately three times the drive distance and time to reach the same point on Biltmore Avenue that could be accessed directly from Reservoir Road. All the traffic utilizing Reservoir Road is residential with the exception of service vehicles and City vehicles accessing the White Fawn Reservoir property. All City vehicles have been asked to utilize Alexander Drive for access to White Fawn to prevent problems from occurring along Reservoir Road.

Trips along Reservoir Road consist of home to school and school to home trips, to work and return trips, shopping and return trips to and from entertainment.

In compliance with State statutes for street closings, the City will need to notify all property owners who may be affected by the closing since all owners did not sign the petition. This would include the property owners at Windswept Condominiums and Wind-in-the-Oaks Condominiums. Should Council decide to pass the resolution of intent, copies of the resolution establishing the intent to close the petitioned portion of Reservoir Road will be sent to all property owners along Reservoir Road, Windswept Drive, Sherwood Road, Buchanan Road, Granby Street, Arden Road, Thurland Avenue and Forest Hill Drive between Thurland Avenue and Biltmore Avenue.

The Public Works Department recommends denial of the petition to close that portion of Reservoir Road. The reasons for denial are that Reservoir Road is a through street that is necessary to conveniently accomplish certain trips for residents in the area; and the road provides alternate access to a number of properties in case of emergencies, such as fire or other catastrophes. The Public Works staff, however, does recommend that the speed limit along the narrow and curving sections of Reservoir Road be reduced to 15 miles per hour and that strict enforcement of the speed limit be conducted, especially during peak hours.

When Councilwoman Sitnick asked if speed limit were reduced from 35 miles per hour to 15 miles per hour could it be enforced, Mr. Ward replied that the average speed was 28 miles per hour, and could not speak to the point of enforceability.

In response to Councilwoman Sitnick's question about when the condominiums were being built above Reservoir Road, were the neighbors, in fact, promised that Alexander Drive would be the route of travel for those condominium tenants, Mr. Ward responded that at least 80% of the condominium traffic from Windswept Condominiums and Wind-in-the-Oaks Condominiums use Alexander Drive as their travel route.

Ms. Jan Kubiniec Howard, initiator of the petition, presented Council with a sheet entitled "Some Pertinent Facts regarding the Petition to Close Reservoir Road." She stated that this is a very involved situation which will not go away by simply reducing the speed limit. She noted the road is narrow and steep. The road curves and has a long straight descent that empties into a 10 foot curve that is three-way blind. She said there is no way to make the road safe. She stated that 50% of the traffic on that road is out of control and speeding. She said the condominium tenants should not object to going another route to save their lives or the lives of a child on that road.

Mr. Ken Myrick, 1 Buchanan Road, spoke in support of closing this portion of the road stating that recently his dog was killed on the road and also his neighbor's mailbox was hit. He felt that Council should weigh convenience against life.

Mr. Deryl Howard, 5 Reservoir Road, stated that when the condominiums were built, the neighbors were assured that no one would use Reservoir Road (which was gravel) as a main access to anywhere except an occasional person at a low rate of speed going through the area. He said they were assured that the reason Alexander Road was built was to service the condominiums. He felt that once Reservoir Road was paved up into the condominiums the speeding started. He spoke in support of closing this portion.

Ms. Myrick, resident and concerned parent living on Buchanan Road, pointed out that there are only two houses on Buchanan Road and there should only be a few people using the road, not 20% of the population that lives in the condominiums. She spoke in support of closing this portion.

Councilwoman Sitnick questioned an item on the "fact" sheet alleging that "an agreement was reached with a previous city council that if the Windswept View and Wind-in-the-Oaks condos were built Reservoir Road was not to be used ...". She asked if that agreement was in writing. Ms. Howard said yes, that she has done tremendous research in the whole aspect of this road for over two years. She said there

ought to be minutes of that during Council meetings and since she was told of this meeting only Friday, she tried to notify people of this meeting and has not had ample time to research that point. She did state, however, that they appear in the Kenilworth Residents meeting minutes, but they have not been able to access those minutes. She is assured, from a number of people, that it exists in writing.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field had no problem in setting a public hearing but wanted time to look at this road and contact some of the signers on the petition because some did not live anywhere close to this road and she wondered why they signed the petition.

Councilwoman Sitnick moved for the adoption of Resolution No. 95-30. This motion was seconded by Vice-Mayor Peterson and carried unanimously (7-0, with Councilman Watts participating).

RESOLUTION BOOK NO. 22 - PAGE 210

B. ORDINANCE NO. 2194 - BUDGET AMENDMENT FOR A CRT CONSOLE UPGRADE FOR POLICE COMMUNICATIONS

Councilman Watts was participating in this matter via speaker phone.

Mr. Bob Wurst, Audit/Budget Director, said that the 1993/94 Capital Improvements Program ("CIP") Police budget had an appropriation of $58,000 for an upgrade to one of the Police communication consoles. This upgrade allows the telecommunicators to be more responsive and able to monitor their communication more effectively. A change order to our Motorola radio contract was approved in January of 1994. We expected the equipment to be installed and paid for in May of 1994. However, the equipment installation was delayed until July of 1994 and the funds were not encumbered. This delay means that the payment for this equipment occurred in the 1994/95 fiscal year.

Since the payment for the equipment was made against the 1994/95 CIP budget, this purchase will make the Support Division of the Police capital budget go over if we proceed with all planned purchases for this year.

However, since the money originally budgeted for this purchase was not spent in 1993/94, it reverted to fund balance. Therefore, Council can reappropriate the $53,000 needed to pay for this equipment in the 1994/95 fiscal year.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2194. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2194 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 41

At this point in the meeting, Councilman Watts did not participate any further.

C. ORDINANCE NO. 2195 - BUDGET AMENDMENT TO APPROPRIATE FUNDS FOR REDEVELOPMENT/REHAB TRANSFER FROM HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO CITY OF ASHEVILLE

Ms. Julia Cogburn, Planning Director, said that this budget amendment, in the amount of $43,000 will reallocate CDBG funds from the Hill/Cherry Street Neighborhood Improvement Project to Community Development Administration.

She said the City Council has decided to transfer administration of redevelopment and rehabilitation from the Housing Authority to the City of Asheville. Legal and other administrative one-time expenditures will result immediately for the transfer to be effective on July 1, 1995. These costs include transferring documents such as: property ownership, outstanding loans, bank accounts, judgments, liens, suits, agreements, obligations, etc. Actual cost will be charged and all attempts will be made to keep actual cost below budget appropriation. The following is a listing of the budget appropriation: Legal (both City and Housing Authority $20,000; grant administration (Housing Authority) $15,000; copying and duplicating $2,500; equipment $3,500; moving (overhead transfer) $2,000 - totaling $43,000.

Ms. Elizabeth Graham, Chairman of the Planning and Zoning Commission, wondered why the money was being taken out of the Hill/Cherry Street Neighborhood Improvement Project and not any of the other redevelopment projects. Mr. Marvin Vierra, Community Development Director, explained that only Hill/Cherry Street and South Pack Square have any fund balances. The other projects are closed out.

City Manager Westbrook responded to questions from Mr. Johnny Lloyd about staffing this function when it is transferred to the City.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2195. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 6-0, Ordinance No. 2195 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 43

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 21, 1995, AND THE WORKSESSION HELD ON FEBRUARY 28, 1995

B. RESOLUTION NO. 95-31 - RESOLUTION ABOLISHING THE DESIGNATION OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AS THE REDEVELOPMENT COMMISSION OF THE CITY OF ASHEVILLE

Summary: At the direction of City Council, following their retreat held in January, staff has been conducting preliminary work to bring about the transfer of the City's redevelopment and rehabilitation functions. This resolution abolishes the Housing Authority of the City of Asheville as the Redevelopment Commission for the City and exercises its authority to undertake the exercise of the powers, duties and responsibilities of a Redevelopment Commission itself.

RESOLUTION BOOK NO. 22 - PAGE 212

C. **RESOLUTION NO. 95-32 - RESOLUTION TO ESTABLISH AN INTERIM HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE**

Summary: This resolution will establish an interim Housing and Community Development Committee to serve until a new structure for the committee is formalized. The current Council members of the Housing and Community Development Committee (Leni Sitnick, Chris Peterson and Herb Watts) will review the CDBG and HOME applications with input from Julia Cogburn and Marvin Vierra. This interim committee will recommend the funding allocation for CDBG and review the recommendation for HOME funding allocation from the Housing Consortium. The interim committee will advise the full Council on Housing and Community Development issues until a new committee structure is established during the summer.

RESOLUTION BOOK NO. 22 - PAGE 214

D. **RESOLUTION NO. 95-33 - RESOLUTION TO ADOPT THE CITIZEN PARTICIPATION PLAN FOR THE CITY OF ASHEVILLE**

Summary: HUD requires the City to adopt a Citizen Participation Plan that describes citizen participation in the Consolidated Planning process for CDBG and HOME funding grants.

RESOLUTION BOOK NO. 22 - PAGE 215

E. **RESOLUTION NO. 95-34 - RESOLUTION REQUESTING NC DOT TO REMOVE CERTAIN STREETS IN THE ENKA ANNEXATION AREA FROM THE STATE STREET SYSTEM SO THAT THEY MAY BE PLACED UPON THE CITY STREET SYSTEM**

Summary: Upon annexation of new areas into the City of Asheville, NC DOT requires that the City accept certain State roads in the area as City System Streets.

RESOLUTION BOOK NO. 22 - PAGE 216

F. **RESOLUTION NO. 95-35 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CRISP, HUGHES & COMPANY, L.L.P., FOR AUDITING SERVICES FOR FISCAL YEAR 1994-95**

Summary: General Statutes require that local governments of NC have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. Staff recommends audit firm of Crisp, Hughes & Co., LLP.

RESOLUTION BOOK NO. 22 - PAGE 218

G. **RESOLUTION NO. 95-36 - RESOLUTION AUTHORIZING THE CITY MANAGE TO APPLY FOR AN URBAN TRAIL GRANT TO COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA**

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the Community Foundation of Western North Carolina in the amount of $5,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

RESOLUTION BOOK NO. 22 - PAGE 219

H. RESOLUTION NO. 95-37 - RESOLUTION AUTHORIZING THE CITY MANAGE TO APPLY FOR AN URBAN TRAIL GRANT TO NORTH CAROLINA ARTS COUNCIL

Summary: The Urban Trail Committee is seeking approval to submit a grant proposal to the North Carolina Arts Council in the amount of $8,000. The grant would engage an African-American artist who will prepare a sculpture which would interpret the history of "The Block" near the corner of Eagle and Market Streets. The grant will provide part of the costs of the materials, research, administration, artist fees and shipping for the sculpture.

RESOLUTION BOOK NO. 22 - PAGE 220

I. RESOLUTION NO. 95-38 - RESOLUTION TO AWARD BID FOR THE UPGRADE OF THE CITY'S SLI-N TELEPHONE SWITCH

Summary: Three bids were received. Staff recommends award be made to low bidder, Business Communications Inc., Greensboro, N.C., for the purchase of the specified upgrade in the amount of $24,189. A complete copy of the bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 22 - PAGE 221

J. RESOLUTION NO. 95-39 - RESOLUTION TO AWARD BID FOR PRISONER TRANSPORT VEHICLE

Summary: Two bids were received, however, on February 23, 1995, nine days after the bid opening date, the low bidder, Matthews Ford, Asheville, N.C., made a written request to withdraw their bid. Staff recommends that award of bid be made to the second low bidder, Sirchie Finger Print Labs, Inc., Medford, N.J., for one 1995 Ford, E350 Commercial Cutaway Cab and Chassis with a 1995 Supreme/Sirchie Group Body for a total bid of $41,437. (Sirchie's bid is $37 higher than the low bid). A complete copy of the bid summary is attached hereto as Exhibit "B".

RESOLUTION BOOK NO. 22 - PAGE 223

K. RESOLUTION NO. 95-40 RESOLUTION APPOINTING G. DIANE WESTMORELAND TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: The term of Gary Ashburn expired on December 31, 1994. This resolution will appoint G. Diane Westmoreland as a member to the Community Relations Council for a three year term, term to expire December 31, 1997, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 225

L. RESOLUTION NO. 95-41 - RESOLUTION OF INTENT TO DEMOLISH 17 RIDGE STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 21, 1995

RESOLUTION BOOK NO. 22 - PAGE 226

M. RESOLUTION NO. 95-42 - RESOLUTION OF INTENT TO DEMOLISH 106 BURTON STREET AND CALLING FOR A PUBLIC HEARING ON MARCH 21, 1995

RESOLUTION BOOK NO. 22 - PAGE 227

N. MOTION SETTING A PUBLIC HEARING ON MARCH 21, 1995, TO REZONE 19 LOTS IN THE MONTFORD AVENUE AREA (LOCATED ON PANOLA STREET, CUMBERLAND AVENUE AND MONTFORD PARK PLACE) FROM OI OFFICE INSTITUTIONAL TO R-3 RESIDENTIAL

Councilman McClure moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Ms. Patty Joyce, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. She said the following actions were taken by the Planning and Zoning Commission on March 1, 1995:

COURTYARD HOTEL - OFF TUNNEL ROAD

Ms. Patty Joyce, Senior Planner, said the 78 room Courtyard Hotel is proposed to be located on Buckstone Place behind Pearlman's Furniture on Tunnel Road.

On February 17, 1995, a notice was sent by the Planning Department to 10 surrounding property owners making them aware of the proposed hotel and public hearing.

At the public hearing held by the Planning and Zoning Commission on March 1, 1995, one person spoke besides the petitioner. The individual wanted to know where the entrance sign would be located.

The City Planning staff recommended approval with two conditions:

1. Confirmation of fire flow availability.
2. NC DOT approval regarding increase in traffic volume at Buckstone Place/ Tunnel Road intersection and stormwater runoff onto I-240 right-of way.

The Planning and Zoning Commission reviewed and approved the project subject to the conditions recommended by staff.

She stated that NC DOT has since given their approval regarding increase in traffic volume at Buckstone Place/ Tunnel Road intersection and stormwater runoff onto I-240 right-of way.

Mayor Martin stated that he has received one phone call from Mrs. Peek who opposed the project.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

NEW HAW CREEK MEWS APARTMENTS - PHASE 3

Ms. Patty Joyce, Senior Planner, said that the Planning and Zoning Commission held a public hearing on March 1, 1995, for the New Haw Creek Mews Apartments, Phase III, which is proposed for a site at the corner of Beverly Road and Avon Road. The Commission voted 4-3 to approve the group development subject to certain conditions.

New Haw Creek Mews and Associates, Britt Simon, Developer, are proposing to build Phase III of the Haw Creek Mews on Beverly Road across from the Phase I and II of Haw Creek Mews. Phase III will consist of 98 apartment units in nine buildings. The Planning Department's review of the project found that the project met the requirements of the zoning ordinance and thus recommended approval of the project. The developers met with adjoining properties owners to explain the project prior to the public hearing held on February 15, 1995. Concerns about increase traffic and the negative effects of the project on neighboring property owners were expressed. A traffic impact analysis of the proposed project from the Public Works Department was requested by the Planning staff and was discussed.

There was considerable opposition expressed from the neighborhood. Approximately 20 people expressed their concerns at the February 15th hearing about the proposed project and also on issues related to problems they had experienced since the Mews Phase I and II were built. Anticipated problems with increase traffic, crime, litter, noise and concerns about the high density allowed on the site were expressed at that meeting also and at the continuation of the public hearing held on March 1, 1995.

The Planning and Zoning Commission voted (4-3) to approve New Haw Creek Mews, Phase III subject to the following conditions. 1) approval of the erosion control plan, 2) approval of the storm drainage plan and issuance of a "no-rise" certificate for the area along Haw Creek, 3) approval of driveway access permits, and 4) any changes in the approved site plan will require the approval of the Planning and Zoning Commission.

Mr. Johnny Lloyd, resident in Haw Creek, voiced a concern about traffic.

Ms. Barber Melton, from the Haw Creek Homeowners Association, urged Council to hold a public hearing on this to address safety concerns, concerns with the density being too great for that piece of property and pay particular attention to the track record of the developer.

Ms. Jaimie Mulvey, resident at 24 Lynnstone Court and owner of business at 65 Beverly Road, also urged Council to set a public hearing on this matter.

Mr. Jerry Crow, attorney representing the developer, welcomed a public hearing and hoped that City Council would listen to the developer and the people opposed and keep an open mind.

Vice-Mayor Peterson clarified a statement made in the paper and noted that he did not commit in any way which way someone would vote.

Councilwoman Sitnick moved to set a public hearing on this group development on March 21, 1995. She requested that the Traffic Engineer be available and that either the Council liaison of the Planning and Zoning Commission or the co-liaison be present for this hearing. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick stressed the importance of appropriate notice. She felt it was imperative that everyone is notified.

B. RESOLUTION NO. 95-43 - RESOLUTION AMENDING RESOLUTION NO. 95-7 ESTABLISHING THE UDO STEERING COMMITTEE

City Attorney Slawter said that, pursuant to City Council's instructions, this resolution will expand the UDO Steering Committee from seven to nine citizen members. Those members are Gary McClure, City Council representative; Robert Mayhew, Planning & Zoning Commission representative; Jim Skalski, Albert Sneed, Karen Cragnolin, E. Benson Slosman, Winston Pulliam, Johnny Lloyd, David Brown, Richard Nantelle and Carolyn Wallace.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it will not be read.

Councilman McClure moved to adopt Resolution No. 95-43. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 228

C. COUNCIL CHAMBER ACOUSTICS

Councilwoman Sitnick asked the City Manager to see if anything could be done about the acoustics in the Council Chamber. She suggested a different microphone at the podium might be helpful.

D. CITY COUNCIL MEETING DAY AND TIME

Mayor Martin moved to change the formal City Council meeting time from the first and third Tuesdays to the second and fourth Tuesdays at 5:00 p.m., effective May 1, 1995. He felt this would alleviate some of the problems associated with the City and the County holding their meetings on exactly the same day and at the same time of the month. It was his understanding that the Buncombe County Commissioners hold their formal meetings on the first and third Tuesday beginning at 4:00 p.m., which meetings sometimes carry over to the second and fourth Tuesday. However, if the formal meeting is not carried over, they do not have worksessions and thus, there would not be a County meeting on the Council formal meeting day. This motion was seconded by Councilman Swicegood.

Vice-Mayor Peterson said that his initial motion was to change the day to Thursday at 5:00 p.m. He felt that many people wanted to attend both City and County meetings and if we changed, they would have that opportunity.

Councilwoman Sitnick stated that this has been a real pet peeve for her for the last seven or eight years. She used to stand at Council's podium and give her speech about the conflict of day and time and then she would go to the County Commissioner's meeting and stand at their podium and say the exact same thing. She doesn't understand why Tuesday is such a sacred cow. Apparently it is the day everybody wants to do government. The members of the public will have a difficult time knowing which days are formal meetings, which days are worksession meetings, and as Mr. Bishop pointed out last week, our Charter specifically says that we have to meet with public opportunity for dialog every single week which we do - including our worksessions. So, even on the days when we have our worksessions where the public might want to participate, there's going to be a conflict if those are the days for formal County Commissioner meetings. About six months ago we met with the County and I brought this up at that time and there was no movement on their part to even consider changing their day and their time. I would have to say that changing the time of our meetings might help a little but when you consider theirs starts at 4:00 p.m., most of the business of the meeting comes at the end or the middle of the meeting, people are going to run over here if they chose to be here and

miss part of their meeting. I still don't think it takes care of the problem. It's an improvement. She felt that a lot takes place at worksessions when the County will be having their formal meeting.

Vice-Mayor Peterson concurred with Councilwoman Sitnick saying that the Council gets briefed on controversial items at worksessions and he felt the Council gets more done at worksessions. He felt that the motion on the floor is just sugar-coated and it was not the meaning of his previous motion to change the day.

Mayor Martin said that there were other specific reasons other than just creating a little more convenience for the public, those being, if you have a meeting on Thursday, the legal ads would have to go in the Sunday paper which is more expensive, it would delay public hearings for an additional two weeks, and staff would be hard-pressed coming out of a Thursday evening meeting and have to get their legal notices to the paper by 9:30 a.m. Friday morning.

Vice-Mayor Peterson said he remembered being on the campaign trail when we were specifically asked, would we change the day that Council meetings so as to not conflict with the County government and everyone here, just about, said yes they would. He wanted everyone to remember that if some people vote for this motion, they are breaking a promise. He would not be in support of the motion.

City Attorney Slawter pointed out that Council has to establish, by formal action, when it's normal time of meeting is. In 1982, the Council established by resolution that meetings be on Tuesday afternoons at 4:00 p.m. If Council meets earlier, then the press and other interested parties who have asked that they be notified, are notified of the changed meeting times. The Charter does provide that Council meet weekly, and except in unusual circumstances that is done. He suggested that if the Council is going to take some action to change the time of the meetings that it not make reference to only the second and fourth Tuesday. We have, informally, begun to have our formal meetings generally on the first and third Tuesdays and informal meetings (worksessions) on the alternate weeks. He recommended that the motion simply state that the meeting be changed to 5:00 p.m. on Tuesdays, rather than say 5:00 p.m. on the second and fourth Tuesdays.

Mayor Martin agreed to amend his motion to read that the formal City Council meetings be held at 5:00 p.m. on Tuesday afternoons effective May 1, 1995, so as not to conflict with County Commission meetings. Councilman Swicegood agreed to the amendment. Staff was directed to start shifting formal meetings from the first and third Tuesdays to the second and fourth Tuesdays.

Councilman Swicegood didn't recall this being that big of an issue for himself and he stated that he never said that he was in agreement to switching the day. He felt like Tuesdays have worked extremely well for this Council and the prior Council he was on. He felt the time change was a very positive move in order to allow more business people to be involved. He supported keeping the meetings on Tuesdays.

Councilwoman Field said that when Vice-Mayor Peterson brought this forth at a meeting two weeks ago, she said that she would be happy to co-sponsor with him and Councilwoman Sitnick to change the meeting to a different day. She is very concerned about the meetings being on the same day. At this point, however, we are not voting on a motion to change the day, but rather a motion to change the time and so she concurred that we need to change the time as well. She said that she supported the time change.

Mayor Martin disagreed with Vice-Mayor Peterson about going back on promises. He felt that what happened on the campaign trail was to point out that there was a conflict and what we would do was to try and avoid that conflict. If that required changing the day, then we would. But if we can avoid the conflict by other means, I think we should do it that way.

Mayor Martin's motion to change the time of the Council meetings to 5:00 p.m., effective May 1, 1995, was voted on and carried unanimously.

Upon inquiry of Councilwoman Sitnick about any other day of the week that the meeting might be held, City Manager Westbrook said that Mondays and Fridays are generally legal holidays and Wednesdays are traditionally church nights. That leaves Thursdays as the most viable date.

Councilwoman Sitnick suggested meeting at 7:00 p.m. in order to give people a chance to get home and have dinner. If senior citizens attend a public hearing at 5:00 p.m., they may find it difficult to wait so late for dinner.

Mayor Martin said this is not a dead issue, of course, and can be brought back at another time if changes are necessary.

Councilwoman Field said she personally had no problem with having night meetings. She said it might be better for her because that gives her a full day of work. However, having night meetings will cause a tremendous amount of more staff overtime and compensatory time.

E. COMMENTS BY RALPH BISHOP

Mayor Martin read Section 9 out of the Rules and Regulations of the City Council dated December 22, 1992, which states the powers of the Mayor. He told Mr. Ralph Bishop that at any time he impugns the character of any member of this Council or any member of staff, he will call him out of order. He said he will expect Mr. Bishop to cease and desist.

Mr. Bishop stated that the Mayor always has the gavel and anytime he wants to have him arrested for coming over to the Council meetings, we would go to Superior Court and have a jury trial.

Mr. Bishop then spoke to Council about their lack of upholding their oath of offices.

Upon inquiry of Mr. Bishop about Council adopting an ordinance only on one reading, City Attorney Slawter explained a change in the 1993 legislation that now provides that "no ordinance nor an action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of the actual membership of the Council, excluding vacant seats."

F. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of February 16-22, 1995: Dewayne Tillman (Police) and Lewis E. Carland (Water).

He also said that the following claims were received by the City during the week of February 23-March 1, 1995: Vicky Hill (Streets), Connie Sandford (Water), 13 Deanwood Circle (Streets), Derrick DeVerger (Water), Terry Calloway (Streets) and Julie Keefer (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

G. CLOSED SESSION

At 5:35 p.m. Councilwoman Field moved to go into closed session to discuss a legal issue which requires consulting with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 6:35 p.m. Councilwoman Field moved to come out of closed session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:35 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 439-95

BID OPENED: MONDAY, FEBRUARY 6, 1995 3:00 P.M.

THE UPGRADE OF THE CITY'S SL1-N TELEPHONE SWITCH

ITEM NO.		BUSINESS COMMUNICATIONS INC. GREENSBORO, NC	BELLSOUTH COMMUNICATIONS SYSTEMS ASHEVILLE, NC	SPRINT/CENTEL HICKORY, NC
1 JOB	UPGRADE OF CITY'S SL1-N TELEPHONE SWITCH TO MERIDIAN OPTION 61C, SOFTWARE RELEASE LEVEL 19B OR LATEST RELEASE AND INCLUDE NORTH AMERICAN NUMBERING PLAN.			
	MATERIALS:	$21,615.00	$32,502.75	$39,813.85
	LABOR:	$2,574.00	$2,216.65	$6,415.38
	TOTAL BID:	$24,189.00	$34,719.40	$46,229.23
	DELIVERY:	40 Days ARO	4 Weeks ARO	6 Weeks ARO
	TERMS:	Net 30 Days	Progressive payments: 20% upon execution 50% upon delivery 30% upon cutover	Net 30 Days

The following companies submitted a 'No Bid': Citizens Communications Systems, Brevard, NC; Alltel Supply, Inc., Norcross, GA; and Interconnect Products & Systems, Inc., Wilkesboro, NC. The following companies did not respond: Saluda Mountain Telephone, Saluda, NC; and R & E Electronics, Inc., Wilmington, NC;

Exhibit "A"

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 440-95

BID OPENED: TUESDAY, FEBRUARY 14, 1995

ONE (1) PRISONER TRANSPORT VEHICLE FOR CITY OF ASHEVILLE POLICE DEPARTMENT

ITEM NO.	MATTHEWS FORD INC. ASHEVILLE, NC	SIRCHIE FINGER PRINT LAB., INC. MEDFORD, NJ
1) Prisoner Transport Vehicle		
CAB AND CHASSIS		
MANUFACTURER:	Ford	Ford
MODEL:	E-350 Commercial Cutaway	E-350 Commercial Cutaway
YEAR:	1995	1995
BODY		
MANUFACTURER:	Supreme/The Sirchie Group	Supreme/Sirchie
MODEL:	PTV-900	PTV-900
YEAR:	1995	1995
BID AMOUNT:	$41,400.00	$41,437.00
DELIVERY:	196 Days A.R.O.	150 Days A.R.O.
TERMS:	Net 30 Days	Net 30 Days

The following companies did not respond: The Mattman Company, Escondido, VA; Odyssey Automotive Specialty, Wharton, NJ; Phoenix Worldwide Industries, Miami, FL; Specialty Vehicle Inc., Downey, CA; and Parkway Chevrolet, Asheville, NC.

Exhibit "B"

93

Tuesday - March 21, 1995 - 2:00 p.m.
Room 623 - City Hall

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in rehabilitation hospital)

Tax Protests Filed by Property Owners of Brevard Road Annexation Area

City Attorney Slawter said that the City and the Tax Collector have received several protests from property owners in the Brevard Road Annexation Area related to recent tax bills.

The amount of tax being protested by those property owners filing protests is based upon their assertion that they should not be taxed for July, August, September, October and November, 1994.

N. C. Gen. Stat. sec. 105-381 provides a method by which taxpayers can challenge a tax that has been done in this instance. The statute provides that, upon receipt of such a challenge, the governing body shall either (a) release that portion of the tax that is determined to be in excess of the correct tax liability; or (b) notify the taxpayer in writing that no release or refund will be made.

If the Council were to determine that the protests should be honored, other taxpayers in the Brevard Road Annexation Area would also be entitled to refunds. The Audit/Budget Director estimates that the total amount involved is $200,000.00.

Our recommendation is that the Council direct that the protesting taxpayers be notified in writing that no release will be made. If the Council concurs, then the protesting taxpayers are required by statute to pay the tax and may thereafter institute a civil action for a refund.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

TCI CABLEVISION OF ASHEVILLE

Ms. Patsy Meldrum, Assistant City Attorney, said that TCI is seeking approval of its annual adjustment to update equipment and installation charges for the basic service tier and approval of an inflation adjustment to the basic service tier rates.

City staff only recently received a copy of the new regulations adopted by the Federal Communications Commission and recommends, pursuant to the authority granted by the FCC regulations, that the time period for review of the proposed rate change be extended until April 4, 1995.

Councilwoman Sitnick asked the cable consultants check to see if TCI Cable is basing their franchise fee payments to the City on their basic rates or some other method, to see if we can collect any money retroactively and to find out the details of the City owning their own system.

City Attorney Slawter stated that the City's franchise agreement runs out in the year 2002 and suggested, at that time, the City could look at the details of owning their own system as a negotiating tool.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

SELECTIVE TRAFFIC ENFORCEMENT PROGRAM FUNDING

Police Chief Will Annarino said the Police Department is seeking third and final year federal support for its Selective Traffic Enforcement Program. The grant application seeks $106,801 in federal funds and requires $121,201 local match.

It was the consensus of Council to proceed with appropriate action at the next formal meeting.

CIVIL SERVICE TASK TEAM PRESENTATION

Ms. Pam McGrayne, Personnel Director, said that City Council has requested employee input be obtained prior to requesting any change in the Civil Service Law. This Task Team was formed to gather information from all employees and the Civil Service Board about the hiring, promotional, and testing processes required by the Civil service Law. The second task of this team will depend on further instructions from the City Council.

Mr. Gary Ramsey, Team Leader, reported that since the team had less than one month to perform its first task, options for obtaining employee input were discussed. The logistics for setting up focus groups for several hundred employees along with the time restraint lead the team to send out a written survey.

He then briefed the Council on the Employee Survey Report. Out of approximately 800 surveys that were distributed, 351 were completed and returned. 71% felt the Civil Service Law should not be changed, 18% felt that the Civil Service Law should be changed; and 11% were undecided. He summarized that 44% of the employees that responded to the survey, 71% did not want to change the Civil Service Law. This means that employees were unanimous about this by a four to one margin. Whether they agreed or disagreed with changing the law, employees often made the same comments pro and/or con.

He said the team could have done a more thorough job if it had more time and stated that many City employees do not understand what the Civil Service Law is and how it works. However, the team feels that the results of this survey accurately represent the way employees feel about this issue.

Councilwoman Sitnick understood that the team was trying to be quick in order to meet the legislative deadline, however, she wanted the report to be a thorough study and let every employee have the opportunity to come forward and ask questions. She didn't see that happening with this survey. She wondered why the other 400+ employees did not respond to the survey - they didn't have time, they were not educated enough about the Civil Service Law or perhaps some couldn't put their thoughts down in writing. She stated that she was concerned with the process.

Mr. Ramsey felt that the team would be willing to go back and be more thorough, given more time. He felt that setting up focus groups,

education and a good basic understanding of the Civil Service Law for all employees might resolve Councilwoman Sitnick's concerns.

Councilman Swicegood felt that the Civil Service Law was somewhat outdated and there needed to be some changes. He, along with all the other Council members, agreed that the City employees needed to be educated concerning this issue.

Dr. John Grant, representing the Black Ministerial Alliance, expressed concern about the need to bring in a more racial makeup in City government. The Alliance not only has concerns about the Rule of 3 and its impact on hiring of minorities, but other concerns that need to be addressed as well. He asked to be placed on a Council agenda to discuss these concerns.

Mayor Martin suggested a worksession with the Council might be more appropriate for a meeting and asked Dr. Grant to submit those comments in writing in order to give staff time to research the concerns.

Mr. Tim Moffitt, representing citizens and business owners, felt there was adequate time spent on the written survey due to the simplicity of the two questions asked on the survey. He questioned the percentage statistics as a result of less than half of the employees responding. He said that all employees are provided protections that already exist and they should be educated along those lines as well, and not solely on the benefits that the Civil Service law has to offer. He stressed that City government needed to be managed effectively.

Mr. Glen Holbert, Asheville Firefighters Association, urged Council to leave this process open.

Ms. Laura Gordon, representing the Asheville/Buncombe United Public Workers, stated that their position is to not change the Civil Service Law and hoped Council will leave the process open.

Vice-Mayor Peterson moved that the City Manager, Personnel Director, the Task Team, and anyone else who is interested in this matter, work together so that a thorough report can be achieved and when that has been accomplished, report back to the City Council with the findings. The specifics regarding a time frame that it should be back to Council will be left at the discretion of the City Manager. This motion was seconded by Councilwoman Sitnick and carried unanimously.

ADJOURNMENT

Mayor Martin adjourned the worksession at 3:35 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - March 21, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital) - At certain times, Councilman Watts was able to participate in the meeting by use of a speaker phone. At those times, it will be noted.

INVOCATION

Councilman McClure gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING THE WEEK OF MARCH 20-26, 1995, AS "VOLLEYBALL WEEK"

Mayor Martin proclaimed the week of March 20-26, 1995, as "Volleyball Week" in the City of Asheville and presented Mr. Keith Murless, President of the Asheville Volleyball Club, with the proclamation who briefed the Council on the Hi Neighborhood Volleyball Tournament.

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL

Mayor Martin said that this public hearing was opened on December 6, 1994, and was continued until this date in order to give staff sufficient time to work with the community to address the Head of Montford Redevelopment Plan in general.

Ms. Julia Cogburn, Planning Director, briefed the Council by saying that on December 6, 1994, Council heard the rezoning request of James and Shirley Dozier that five lots in Montford be rezoned from R-4 (high density residential) to CG (Commercial General). Council continued the public hearing so that staff could work with the Montford community in examining the entire Head of Montford Redevelopment Plan and how it might need to be amended. It was felt that there were many issues in the plan which needed to be reexamined and that as it had been seven years since the plan was adopted. It was in the community's best interest to look at all these issues and not just the rezoning.

Two community meetings and two steering committee meetings have been held concerning the plan but work is still in progress. It is now proposed that a recommendation on the rezoning and an amendment to the plan will be ready for Council at their May 23rd meeting.

Planning staff recommends that Council continue the public hearing until May 23, 1995, at 5:00 p.m.

City Attorney Slawter reminded the Council that on December 6, 1994, Councilman McClure was excused from voting due to a conflict of interest.

Councilwoman Field moved to continue this public hearing, without further advertisement, until May 23, 1995, at 5:00 p.m. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. PUBLIC HEARING RELATIVE DEMOLITION OF 17 RIDGE STREET

ORDINANCE NO. 2196 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 17 RIDGE STREET

Mayor Martin opened the public hearing at 4:12 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Inspections, said that 17 Ridge Street was inspected on September 3, 1993, and found the following conditions: the dwelling is abandoned, being occupied by vagrants, is accessible to children, has no electricity, and is unfit for human habitation. Proper notices have been sent to the property taxpayer of record and on December 2, 1994, the owner was given 30 days to repair or demolish. No action has been taken to date.

Councilman Swicegood said that he had received a call from Mr. White (son-in-law of property owner) stating that the owner was in the hospital and he, Mr. White, wanted to meet with the Inspections Division regarding this demolition.

Ms. Hattie Ingram, granddaughter of the owner of 17 Ridge Street, stated that she has talked her grandmother and her grandmother has no problem with the City tearing down the house and placing a lien on it.

Mayor Martin closed the public hearing at 4:16 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2196. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2196 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 45

C. PUBLIC HEARING RELATIVE DEMOLITION OF 106 BURTON STREET

ORDINANCE NO. 2197 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 106 BURTON STREET

Mayor Martin opened the public hearing at 4:17 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Jeff Trantham, Assistant Director of Building Inspections, said that 106 Burton Street was inspected on February 20,1993, and found the following conditions: the dwelling has been severely damaged by fire, has a structurally unsound roof and walls, severely damaged heating, electrical and plumbing systems, has insufficient sanitary

facilities, is abandoned and unfit for human habitation. Proper notices have been sent to the property taxpayer of record and on October 13, 1994, the owner was given 30 days to repair or demolish. No action has been taken to date.

Mayor Martin closed the public hearing at 4:18 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2197. This motion was seconded by Councilman McClure.

On a roll call vote of 6-0, Ordinance No. 2197 passed on its first and final reading.

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D. PUBLIC HEARING TO REZONE 19 LOTS IN THE MONTFORD AVENUE AREA (LOCATED ON PANOLA STREET, CUMBERLAND AVENUE AND MONTFORD PARK PLACE) FROM OI OFFICE INSTITUTIONAL TO R-3 RESIDENTIAL

ORDINANCE NO. 2198 - AN ORDINANCE TO REZONE 19 LOTS IN THE MONTFORD AVENUE AREA (LOCATED ON PANOLA STREET, CUMBERLAND AVENUE AND MONTFORD PARK PLACE) FROM OI OFFICE INSTITUTIONAL TO R-3 RESIDENTIAL

Mayor Martin opened the public hearing at 4:18 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Mike Matteson, Urban Planner, said that the Planning Department received petitions to rezone 15 lots from OI (office institutional) to R-3 (medium density residential). The Planning staff is recommending that four additional lots be considered.

At the Planning & Zoning Commission meeting held on March 1, 1995, 16 area residents and/or property owners spoke. Fifteen of those who spoke were in favor of the rezoning request and one individual asked that the request be tabled.

The Planning staff recommended approval of the rezoning request and inclusion of the four additional property based on the following: (1) this subject properties are residential in use, scale and character; (2) the uses permitted in R-3 are more compatible with these properties than those permitted in the OI district; (3) the City's 2010 Plan proposes residential land uses for this area; and (4) the area abuts an existing R-3 zoning district.

On March 1, 1995, the Planning & Zoning Commission reviewed the request and on a 6-1 vote, recommended to Council that this rezoning request be approved.

The following individuals spoke in favor of the proposed rezoning by stating that the neighborhood is strictly residential in usage and is not suited for other use due to the narrow winding streets, lack of parking, completeness of development and local terrain:

Diane Boswell, 45 Panola Street (who also passed out pictures)
Bill Baber, resident on Montford Avenue
Christie Schreiber, 17 Panola Street
Helen O'Connor, 19 Panola Street
Mary Jo Brezny, resident in Montford community

Mayor Martin closed the public hearing at 4:26 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2198. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2198 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 49

E. PUBLIC HEARING RELATIVE TO GROUP DEVELOPMENT APPROVAL OF HAW CREEK MEWS APARTMENTS - PHASE III

Councilman Watts was able to participate in this portion of the meeting via speaker phone.

Mayor Martin opened the public hearing at 4:27 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that two weeks ago when this matter was before Council to set a public hearing, a question was raised regarding comments that Vice-Mayor Peterson was quoted in the paper of having made and for the purpose of the record I thought it would be best if we began this public hearing by clarifying Vice-Mayor Peterson's statements with regard to whether he has any bias that would prevent him from legally participating in the proceedings here today. The law does provide that if a member of a board setting in a capacity, such as the Council will be sitting here today, should have any bias in terms of having pre-decided how a matter should go without having heard the evidence presented at the public hearing, then that member should be excused from participating in the deliberations of the body. For the purpose of the record, I discussed with Vice-Mayor Peterson and would ask that he simply state whether he has by his earlier looking into this matter formed any conclusions or opinions about the case that would prevent his participating in the deliberations here today and making a decision and voting on the matter based upon the evidence as presented here today. Or whether he has already made up his mind and would not be able to fairly and independently do that.

Vice-Mayor Peterson said that when the City Attorney approached him with this, he felt like he had done nothing that a Council person who is elected is supposed to do. The neighbors were having a meeting, it was an open meeting, I was invited to the meeting, myself and Councilwoman Sitnick were at the meeting. We listened to the neighbors and what their views were on what was getting ready to happen. I did state very plainly that it takes four votes in an issue to get defeated and that they do need four Council votes. I said I couldn't speak for other Council people but I could speak for myself. I looked at the issue and I did see problems in what I saw and I have a lot of questions

which I'm waiting for the developer, when he gets up here, I will ask the questions. But I feel like I've done anything wrong that under City Council, or City of Asheville, that it's up to the City Council to vote that I step down and not vote. And if they choose that I do that, I will be glad to do that. As I said, Councilwoman Sitnick was there and maybe she would like to say something about it.

Councilwoman Sitnick said that clearly she and Vice-Mayor Peterson were there, it was an open meeting as the Vice-Mayor said - it's our job to listen at every opportunity. There may have been people there who couldn't be here. We took notes, we listened, we were sympathetic to what we heard, but that doesn't mean we made a decision. Vice-Mayor Peterson did not state, in any way, shape or form, no matter how anybody would interpret what he said, that a decision had been made, or that a bias had been established. We were there to listen to the concerns of the people we represent. It was very, very simple.

Mayor Martin asked if any member of Council felt that Vice-Mayor Peterson should be excluded from debate. Hearing none, the public hearing continued.

Ms. Patty Joyce, Senior Planner, said that the Planning and Zoning Commission held a public hearing on March 1, 1995, for Haw Creek Mews Apartments, Phase III, which is proposed for a site at the corner of Beverly Road and Avon Road. The Commission voted 4-3 to approve the group development subject to certain conditions.

New Haw Creek Mews and Associates, Britt Simon, Developer, are proposing to build Phase III of the Haw Creek Mews on Beverly Road across from the Phase I and II of Haw Creek Mews. Phase III will consist of 98 apartment units in nine buildings on 6.156 acres.

The terrain on the project is vacant at this time. It is wooded and surrounded by zoning which is primarily predominantly R-3. To the north of the project there is a small Commercial General zone, but the surrounding area is R-3. The uses are single family to the north and the west and multi-family (which is the first two Mews phases) to the east of the project.

The nine buildings consist of four buildings which will be both two and three stories high with a maximum height of 31 feet, 6 inches. Five buildings in the complex will be two stories, with a maximum height of 24 feet, 6 inches. The density in this project meets the requirements in the ordinance in this way. There's also a development standard in R-3 and this site could yield 105 units. The developers are proposing to be at 98 units, which meets both of the ways the ordinance can be interpreted.

The Planning Department did recommend approval of this project based on the requirements of the ordinance being met. She then reviewed the requirements of the review process:

Parking requirements are 2 spaces per unit or 196 spaces - the proposal is for 205 spaces including seven handicapped.

On the landscaping plan there are a variety of issues. The first being that this is a multi-family complex in a residential zone. Therefore, a 20 foot planted buffer is required along the perimeter of the entire project except on Beverly Road which only requires street trees. However, the developer is proposing some additional requirement on himself for landscaping. On Beverly

Road, which there is a sidewalk all the way in front of this project leading up to Tunnel Road. After the sidewalk there will be a ten foot buffer strip planted just identical to the 20 foot buffer strip. Therefore, that's a lot more trees and street trees normally being planted on a project that fronts multi-family.

In the community meeting, the owner of the property south of the project, Mrs. Harris, did express some concerns, being the most close property to the project. A method using a six foot visual barrier fence has been agreed upon by the developers as a method of providing for the landscape ordinance. It will be set on the property line and then a five foot buffer behind that. In those ways, the landscape ordinance has been met. On the site plan directly written is this phrase "existing trees within 15 feet of the property line will remain where possible." Fourteen parking lot trees are required inside the project and 20 are proposed.

Letters of water available for this project and sewer allocation have been received and have been approved by those appropriate authorities.

The report addressing water for fire protection and that has been received and is adequate.

The driveway access permits to Beverly Road and to Avon Road have been applied for. Due to some of the comments at the community meeting about the concerns on traffic, we did ask our Public Works Department to provide us with a report on the traffic concerns in the area. In their report, they did recommend the developer provide two accesses from this property - one on Beverly Road and one on Avon Road. Both accesses would be entrances and exists. Their report states that this development will not adversely affect the traffic flow in this area.

There was considerable opposition expressed from the neighborhood. Approximately 20 people expressed their concerns at the February 15th hearing about the proposed project and also on issues related to problems they had experienced since the Mews Phase I and II were built. Anticipated problems with increase traffic, crime, litter, noise and concerns about the high density allowed on the site were expressed at that meeting also and at the continuation of the public hearing held on March 1, 1995.

The Planning and Zoning Commission voted (4-3) to approve New Haw Creek Mews, Phase III subject to the following conditions. 1) approval of the erosion control plan, 2) approval of the storm drainage plan and issuance of a "no-rise" certificate for the area along Haw Creek, 3) approval of driveway access permits, and 4) any changes in the site plan will require the approval of the Planning and Zoning Commission.

Mr. James Cheeks, City Traffic Engineer, said that on the traffic study for the Haw Creek Mews Apartments, we performed the typical traffic impact study of any type of development that occurs in the City of Asheville. We use the same standards that we use in all our different reviews. In this project we were to look at 98 apartment units to be developed at the intersection of Avon and Beverly. We performed the traffic volume studies, we looked at the accidents in the area, we took a field inventory of the street system, we looked at the traffic counts that had been taken by the N.C. Department of Transportation and in that analysis we took into account the residential nature of the roadway, we took into account all the physical attributes

of the roadway. In our analysis we determined that the 98 apartment units would generate an average weekday volume of 598 trips as per the Institute of Transportation Engineers Trip Generation Manual. The arrival and departure patterns of this manual are consistent with home to work, home to school and home to shop trips during peak a.m. and vice versa during the peak p.m. hours.

Using that information we suggested doing the Technical Review Committee review that the developer install, or include an additional driveway for this project. He did include that driveway on Avon Road. With that, an estimated 50% of the traffic generated by this development will use Beverly Road, which is a two lane, 24 foot roadway with an approximate 7% grade. The 1995 traffic counts indicate that Beverly Road has an average daily traffic volume of 3,457 vehicles. Those traffic counts were conducted from 9 a.m. on Friday, January 27, 1995 - 9:45 a.m. on Wednesday, February 1, 1995. There has been some comments that the traffic counters that were seen at the intersection of Beverly and Avon were there during the snow that we had in February. The counters that we put out were put out and taken up before the snow. The counters that were there during the snow at the intersection of Beverly and New Haw Creek were not the counters at the intersection of Beverly and Avon.

Beverly Road currently operates a level of service C during the peak a.m. and p.m. hours. The level of service C is about an average for a roadway in the Asheville area. Also during the peak p.m., Beverly Road operates a a level of service C. With the additional traffic being generated by the 98 units using the before mentioned arrival and departure distribution, Beverly Road will continue to operate at a level of service C during both the peak a.m. and p.m. hours. Whenever we take traffic counts in the winter months as well as in the summer months, we have adjustment factors that were used to adjust for the day and the weather and the time when we do these counts. We apply those national adjustment factors that we apply to all our raw counts. So the counts that you get are not what you see on the counter, they are the raw counts that we adjusted, based on those factors.

The balance of the site generated traffic will utilize Avon Road. Avon Road is a two lane, 18 foot roadway with the approximate grade of 7%. The 1995 traffic counts indicate that Avon Road has an average daily traffic volume of 1,362 vehicle. Avon Road currently operates at a level of service B during both the peak a.m. and p.m. hours. With the addition of traffic generated by this development using the before-mentioned arrival and departure distribution, Avon Road will operate at a level of service B during the peak a.m. hour and a level of service C during the peak p.m. hour. There will be a reduction in the level of service during the peak p.m. hour on Avon Road.

We have also reviewed the operation of the intersection of Beverly Road, New Haw Creek Road and Miller Road. This is a N.C. Department of Transportation intersection. They have performed a traffic signal analysis at that intersection and they have indicated to us that the intersection does not meet the warrants that are necessary for a traffic signal at that intersection. We have also obtained from the N.C. Department of Transportation accident data concerning that intersection and since 1987 there have been eight reported accidents at this location which include right angle collisions, rear end collisions and loss of control. The intersection does not meet the minimum warrants for the installation of a traffic signal. With the addition of the site generate traffic that would probably use New Haw Creek Road, we see that it would not affect that intersection greatly. Therefore, no

improvements are planned for this intersection. We have conferred with N.C. Department of Transportation and they have no plans for any improvements at that intersection at this time.

Based on this information, looking at the residential nature of the roadway system and based on the analysis that they perform on similar roadways within the City of Asheville, we have found that this 98 unit apartment complex will not adversely impact the traffic flow within this area.

Vice-Mayor Peterson stated his concern about the access on Avon Road which road is narrow, has a big curve has no sidewalks. When he inquired about if sidewalks would be constructed, Ms. Joyce said there are no sidewalks planned.

Councilwoman Field wondered if the same method of calculating cars a day was the same that the Broadway improvement folks said that a two lane facility should be able to carry up to 12,000 cars a day. Mr. Cheeks responded that it is not the same. He further explained that Avon Road, at approximately a level of service D, would be about 8,000 vehicles a day (currently 1,362) and Beverly Road, at a level of service D, would be about 7,500 vehicles a day (currently 3,457).

Councilwoman Sitnick said that Mr. Cheeks said that he had a way of assessing traffic counts at other times of the year. Did he take into account the activity increase on the road during the summer when the ballfields were used, when kids are out of school, etc. Mr. Cheeks responded that using national averages during the months of June and July, traffic variations are about 150 per day, 50% more in what you see in a normal situation. In the City of Asheville we plan for the average daily traffic on all our projects that we bring before you and the Planning & Zoning Commission. There are some spikes like in July when you have 150%. We wouldn't plan for the 150% because then we would be building very large roads and a lot of signals everywhere. So we plan for the average, which is around the 100% range.

Councilwoman Sitnick asked if the ballfields were used by residents that do not live in the immediate area. Mr. Cheeks said that they probably were.

Upon inquiry of Councilwoman Sitnick if the driveway permits have been issued, Mr. Cheeks responded that the permits have been submitted to him but he has not signed them yet pending on the outcome of this hearing.

At the request of Councilwoman Sitnick, Mr. Cheeks said that based on what we do on a day-to-day basis here in Asheville, he would have no problem with an additional driveway on Avon Road which is 18 feet wide.

At the request of Mayor Martin, Mr. Cheeks said that he considered his study a valid study. He also noted that since his study, a separate independent study has been performed by Sprague and Sprague Engineers out of South Carolina. He said they actually performed two studies in response to his study and they both agree with his findings.

Councilwoman Sitnick, speaking to Mr. Gerald Green, Senior Planner, stated that in reading through the book of development standards and the Asheville Code, under soil erosion, under purpose it says "this Chapter is adopted for the purpose of regulating certain land

disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, water courses and other public and private property by sedimentation." She was sure that Mr. Green has been to and seen the site. On the existing land, which is real similar to the proposed site as far as grade (she didn't see Phase I and II sites prior to the projects, but she has seen them now and has seen the new site), she asked Mr. Green if he would say that they are similar in topography. Mr. Green responded that they are similar in topography. She then asked him if there were any problems with erosion and sedimentation control. Mr. Green said that there were several violations of the erosion control ordinance with the first Haw Creek Phases I and II. The violations were corrected after the developers were cited. There were no penalties levied against the developers. They did correct the violations upon notification. Currently there are no outstanding violations. After speaking with the Erosion Control Officer today, the project is, in his words "95% complete" and they are ready to complete the project with only 5% remaining. Councilwoman Sitnick asked if he knew from the time the violations were cited to when they were corrected? Mr. Green said that in most cases they were corrected within a reasonable amount of time and he believed there was one instance where there was some delay in correcting the violation - one of the developer's principals came to Asheville and met with the Erosion Control Officer and the Erosion Control Officer explained what needed to be done. The problem was corrected immediately after meeting with the principal.

The following individuals spoke against Haw Creek Mews, Phase III, for several reasons, which include, but are not limited to: addition of 98 units will create serious traffic problems; the roadway has a 7% grade; Avon Road is narrow, steep, curvy, and has several blind curves; concern of substantial pedestrian traffic; necessity to install sidewalks to avoid accidents along that road; the additional traffic on the roadway will require additional upkeep on the road surface; the edges and roadway will require significant increased maintenance; significant problem in drop of water pressure that occurs periodically, with the addition of 98 more units drawing on that water supply additional water lines will need to be built and a contribution will need to be made to MSD for sewer lines;
there will be a need for additional infrastructure with an addition of 98 more units; property values will be reduced;
environmental concerns in that area; buffer zone has wildlife refuge; suggestion for an environmental impact statement be done; Avon Road is not safe for pedestrians, bicycle or motorists; there are many near accidents; the development is not in harmony with the character of the district in which it is located; adequate standards have not been maintained pertaining to public health, safety and welfare of Haw Creek; Avon Road is a short cut for speeding cars heading to and from Tunnel Road; crime in the area is shown by police reports dated January 1994 to January 1995 showing a range of calls requiring police services from Haw Creek Mews; anticipated revenue derived by this apartment complex will not offset the costs already incurred by City staff; concern that this complex will end up like LaMancha Apartments that is now bankrupt; there will be more erosion control problems; the creek bottom is not firm foundation for three story buildings; ordinance should not be hid behind to do something detrimental to the City and it's residents; Erosion Control and Inspection Offices indicate that everything in those present Phase I and II is only minimum code; there is fill dirt where the swimming pool is presently located which City ordinances do not cover compaction of fill dirt; as of February 21, 1995, the Water Department had not tested the fire hydrants in the development and it was still yellow coded (meaning not enough water pressure out in that area);

rezoning has been requested on three different occasions due to the fact that the community realized what the R-3 would do - but urged to wait until the UDO was in place because the UDO would be in effect and take care of their concerns; there are no more entrances and exits into the valley; there are no plans to improve the feeder lines for water or sewer at this time; the proposed contours on the north and west edges at Beverly Road and Haw Creek in relation to the existing contours are fairly dramatic and would be approximately 20 feet or greater; the degree of fill would be high and would have to be transitioned over a horizontal run of 20-30 feet which is a fairly dramatic extreme grading change and the erosion effects would be fairly significant; the natural thick stand of mature trees which provide a natural buffer on Beverly Road are also facing some of those grading changes and it would be impossible to keep any of the natural vegetation as is indicated with such dramatic grading involved; the wooded area is home for many animals; there should be as much emphasis on the planning as it as on the zoning; need to reinstate environmental impact studies; if there is a wreck on Avon or Beverly Road it will tie up traffic for a long time; concern of intrusion in the neighborhoods and the planning prospective needs to be further ahead than the blade of a bulldozer; deep rut around curve; leaking sewer lines; need to get NC DOT out to fix roads; there is only one main road in Haw Creek; apartments do not promote the nice family neighborhood image; no improvements to New Haw Creek Road since 1933 except regarding surfacing; there were supposed to be 244 units built but 250 units were built in the prior phases; plans shown in October to homeowners were totally different from what had been submitted to the Planning & Zoning Commission in prior phases; questioned if design and study was the same type that designed the Beaucatcher Theater intersection; community wants representation; current problems with Haw Creek Mews I include vinyl siding missing, poor drainage and shingles missing - shows that the project is barely two years old and is falling apart; developer is only doing bare minimum efforts; entrance and exit on Avon Road will make pedestrian traffic much more hazardous; left hand turns out of Haw Creek Mews can cause fatal accidents; need to look if prior Haw Creek Mews phases are really economically viable from a revenue point of view; increase in crime; existing units have only a 65% occupancy; owners do not vote or live in this area and could care less about the quality of the area evidenced by the visual effect the existing development has on the area and the social effect is documented by the incidents of crime; traffic study should have encompassed a more expansive area like two access points off Tunnel Road; the schools are already crowded in that area; no current NC DOT plans to improve road so City should not increase traffic at large leaps with high density housing in a community with the road system which is inadequate; no sidewalks or shoulders on narrow, winding and heavily used road through the valley; streets already unsafe; community is against R-3 development which puts the safety and well-being of Haw Creek residents at risk; out of state developer could care less about their safety; record of this developer is not good - look at LaMancha Apartments; problems with water runoff; erosion control problems; problems with sewer; developer has bought Council advise and consultants to show their case but unfortunately community doesn't have the advantage of hiring lawyers, traffic engineers, consultants to show our case - they depend on our elected representatives to balance the scales; the land is being tortured and not being built in harmony, and not with sensitivity to a hillside mountain site; objection to using traffic engineers from South Carolina where the terrain is vastly different from the terrain we have here; possible slanders on a respectable community; developer wishes to maximize his profits versus the community that seeks to maximize the quality of its neighborhood life; Council should rise

above the mere letter of the law to address the spirit of the law; residents in Haw Creek Mews and LaMancha being driven out because of drug traffic problems; and before Haw Creek Mews were built, sidewalks were installed on Beverly Road and the road was widened to straighten out the curve which residents didn't have a chance to raise questions about but apparently Codes were being met and little did residents know that the then-Mayor was representing the developer:

Mr. Scott Jarvis, speaking on behalf of Mr. Siemens, who represents the Mulvey family and some others in that area
Ms. Sarah Harris, 36 Avon Road
Ms. Michelle Mulvey, resident on Avon Road
Ms. Jaimie Mulvey, resident of 24 Lynnstone Court, and owner of business and residence at 65 Beverly Road
Ms. Martha Capps, resident of Haw Creek
Mr. Bob MacPherson, resident of Haw Creek
Ms. Barber Melton, with the Haw Creek Homeowners Association
Mr. Chris Rogers, resident of Haw Creek and architect
Mr. Mike Mulvey, 17 Avon Road (showed slides)
Mr. Dick Rice, not a resident of Haw Creek
Mr. Mark O'Shields, 22 North Pershing Road
Mr. Mike Lewis, President of the Grace Neighborhood Association
Mr. Gene Melton, resident on New Haw Creek Road
Ms. Gloria Linton, resident on Avon Road
Ms. Maggie Lauterer, 21 Miller Road (submitted prepared statement)
Ms. Heidi Henson, 31 Arco Road
Mr. Mary Ann Noblett, resident in Haw Creek
Mr. John Erwin, 108 Cisco Road
Mr. Chris Pelly, resident on Cisco Road (had photographs mounted on a board)
Mr. Bob Tinkler, resident in Haw Creek
Ms. Pat Skalski, resident of Asheville
Ms. Morgan Pelly, resident in Haw Creek
Mr. Bernard Arghiere, 853 New Haw Creek Road
Ms. Betty Winston, 23 Lynnstone Court (brought in an old shoe, broken glass, litter, chuck of concrete and drug needles)
Ms. Ruth Winston, 23 Lynnstone Court (had letter read by daughter Ms. Betty Winston)
Mr. Lance Satchell, 31 Arco Road
Ms. Geneva Lamb, 24 Avon Road
Mr. Zack Allen, 21 Miller Road
Ms. Jean McClure, 460 Old Haw Creek Road
Ms. Cynthia Miller, resident on Beverly Road

In response to Mr. Jarvis relative to water pressure, Mr. Harold Huff, City Engineer, read a report from the Civil Engineer in the Water Resources Department, who was not able to be at the meeting. He reported that approximately two months ago the Asheville-Buncombe Water Authority invested over $50,000 in trying to correct the problems north of the intersection of Bell Road and New Haw Creek Road, commonly known as the Sondley Estates area. The water problems that they had before then have now been corrected. That is not to say that every home has good water pressure right now. The report goes on to say that the method that serves this area and the facilities that serve this area have changed. Up until two months ago, that probably is correct - a lot of Sondley Estates was having problems but the Water Authority has corrected most of those. As far as this project goes which is south of Bell Road intersection with New Haw Creek, the statement goes on to say that there will be absolute no effect on water service north of Bell Road. This is an isolated system. They have divided the system. You go about half way up Haw Creek (about one mile) and the system severs and then from there it serves the northern part.

Councilwoman Sitnick asked Ms. Sarah Harris if she had a driveway and if it was a driveway that she had to back out of. Ms. Harris said that she did have a driveway but did not have to back out. Councilwoman Sitnick then asked if she had difficulty getting out onto Avon Road. Ms. Harris replied that she did have problems because of the speeding cars. Councilwoman Sitnick asked if there had ever been a light there and Ms. Harris responded that there had not.

Councilwoman Sitnick asked Ms. Michelle Mulvey is she felt that her health, safety, welfare and convenience has been jeopardized. Ms. Mulvey responded that she does. She said that eight years ago it was safe when she pulled out of her driveway, but now you have to be very careful because of the speeding.

Councilwoman Field said that Ms. Jaimie Mulvey indicated that the soil is not stable. She asked Ms. Mulvey if she had any soil tests to substantiate that comment. Ms. Mulvey said that she did not, this was only her opinion from living in that community and watching the river rise over the years.

Mayor Martin asked Fire Chief John Rukavina to report about the water pressure and fire hydrants concerns. Fire Chief Rukavina said that the available water flow for firefighting in the Haw Creek area varies from area to area. A hydrant with a red top generally is less than 500 gallons per minute, a hydrant with a yellow or orange top is generally from 500 to 1,000 gallons per minute and a hydrant with a green top is generally over 1,000 gallons per minute. In the immediate area of the proposal there are adequate fire flows for the type of construction that is proposed. In this specific area there is adequate pressure and volume for firefighting for the type of structures that are proposed. In this area, according to the tests we have done most recently, the required fire flow that we believe is necessary for this type of risk is 1,750 gallons per minute. These hydrants flow in excess of 1,750 gallons per minute at 20 pounds residual pressure, which means there is additional capacity for the system to deliver beyond that.

Upon inquiry of Councilman McClure about any kind of a structural fire there, Fire Chief Rukavina said that there would be five pieces of fire apparatus and approximately 15 firefighters. If there was a significant working fire in that area, we would call for additional help and also for mutual aid backup from other fire departments in the area. If they are doing interior firefighting, and that's the assumption behind the fire flow requirement, then generally we are working with hose lines that flow in the 200-250 gallon per minute range. It simply is not possible or feasible to work inside a building with larger hoses. If we are talking about a building that's totally involved in fire, then we would back away and we would probably rely not only on hydrants in the immediate area but one or two hydrants or water mains removed from the area and we would probably be looking at flows to protect the exposures in the 1,500-2,000 gallon per minute range. The assumption we made in identifying fire flow is what do we need to deal with a working fire in that building. And as far as what we need to deal with a building burning out of control, that's not the situation we would expect to encounter so our calculations are not based on that kind of scenario - just is there enough water for firefighters to go in and successfully combat what you might call a typical working fire inside an apartment structure, a single family home, or whatever the type of structure is that is being proposed.

When Councilwoman Sitnick asked Fire Chief Rukavina about how many green, yellow and red tops in the general Haw Creek area, he was not able to respond. He said that there are some areas, and the Water Authority representative may be better able to address this better, but in some areas in Haw Creek the problem is not whether or not there is adequate volume, the problem is the variability of pressure. In some areas pressure relief values have been installed because the pressure is high. My understanding in this area is that the pressure is what you would expect in a typical municipal water system and the volumes are adequate to meet the fire flow demand to fight the fire adequately. But elsewhere in the Haw Creek valley there are red top hydrants because the water supply is relatively low, yellow top hydrants and green top hydrants. Again, in the entire valley area, the water supply does vary.

At this point in the meeting, Councilman Watts did not participate any further.

Councilwoman Sitnick stated that she wanted to take advantage of Ms. Barber Melton's history with the City, the fact that she did serve on the Planning & Zoning Commission for several years and the fact that she lives out there and has seen the topography on a daily basis, during and after rain storms. Councilwoman Sitnick asked Ms. Melton for her opinion as to why there have been so many erosion problems in the area. Ms. Melton stated that this goes back to 1992 and one of the committees she served on for the City addressed the floodplain. The statement was made by a State representative that Haw Creek has 75% floodplain development. Anyone knowing that there's been a lot of development in our valley over many, many years and when the development was done along the creek, it was not channeled out so that any runoff going into that creek did not cause a flooding problem. It does not take a whole lot of rain for the bridge down at Miller's Store to be under water. With Mr. Simon's buildings being down on the plans down along the creek there, She didn't see how he's going to be able to put those there. She believed he's going to have to go with three story buildings up near Ms. Harris because that's really going to cause a problem for him in the floodway there. Also, the problems with the development of Haw Creek valley is that the road system can't support it and there was never any sort of purchasing by either the State or the City for any of the road system to be improved for the main roads getting in and out. She is a slow motorist sometimes and she has to leave home 10 minutes early to get at her job at 8:00 because they're backed up almost to the back of the patrol station trying to get out.

Councilwoman Sitnick then asked Ms. Melton, since she was on the stormwater committee, her opinion if the stormwater guidelines had been met or could they be met. Ms. Melton said that Mr. Jensen has never shown her the plans for the stormwater. Last time she checked with the Erosion Control Office they had not received those. Therefore, she had not seen the stormwater plans for this project, but it is a situation that she's very concerned with simply because the developer has had so many erosion control problems already with these first phases and also with the LaMancha he also had quite a bit of problems there and was sued three times and lost three times in court. She does have copies of those cases. So, she does have a real problem, since she is a stormwater person, in being sure that it does not add further problem to what we already have there.

Councilwoman Sitnick said that she knew that Haw Creek School is a County school in the City. And, in the past the City Council has had a policy to have sidewalks installed within a 1/4 mile of all schools.

Since Ms. Melton has lived out there for so long, does she have any recollection historically why sidewalks weren't put there. Was it because it's a County school? Ms. Melton responded that she didn't know but she knew that it has been asked by the parents of the children who go to Haw Creek School many times because, as you know, the back entrance to Trinity Chapel is not a safe way for the children to walk on and certainly New Haw Creek Road is not a safe way. But, to answer your question, I do not know why we never got sidewalks out there. The only place Haw Creek has sidewalks is up Beverly Road.

Councilwoman Field asked Ms. Melton if she could tell, from the site plan submitted by the developer, how much of this property is in the floodplain? Ms. Melton said that she didn't know right off her head, but in the Planning & Zoning meeting with Mr. Simon and Mr. Jensen, they did express the fact that they had some reservations about the buildings shown on this plan down along the creek because of the problem.

Vice-Mayor Peterson asked Ms. Melton if she was on the Planning & Zoning Commission when the first apartments were built. She replied that she was. He then said that at the neighborhood meeting that there were certain stipulations that were placed on them. She replied that there were stipulations placed on the developer. For one thing, we looked at preliminary plans, obviously, when it first came to the Commission. There was a committee formed to meet with the developer through the neighborhood and that was to be done. There were two other sets of plans brought to the Planning & Zoning Department and they were to be able to only make minor changes. The Commission never saw the finished final plan. That was not brought in until October, the hearing was in March, there was a different architect that did plans in May - so there were changes and as much controversy as there was over this project, what was changed there we felt like due to building heights and so forth, was a little more than minor. In fact, Ms. Joyce had written the gentleman a letter which is included in the packet that she gave Council yesterday that did address some problems they had with the plans that were turned in after the initial Planning & Zoning Commission hearing and Council hearing.

Vice-Mayor Peterson asked Ms. Melton how many units were they approved to build. Ms. Melton said 250. She said that had originally asked for more than that and Mr. Ellison and several other Council members had a problem with the units where Phase II is now because they are in that curve and having the road come out in a blind curve. So, there were fewer units approved by the Council.

Mr. George Jensen, Civil Engineer representing the developers, said that as far as questions about the floodway, the flood fringe area, basically the buildings are outside the floodway of Haw Creek and by the ordinance they have to be constructed at least two feet above the 100 year storm elevation. That is something we will do. The foundations also have to meet very rigorous requirements for compaction or design, it has to be designed and signed off by a structural engineer and the soil testing done by a geotechnical engineer by a regular certified laboratory. They will be constructed in accordance with the ordinance.

Councilwoman Field asked Mr. Jensen if they have done any pre-testing to find out if there are problems with the soil. He said that they had no problems with the soil across the street and he felt the soil over on the other side wouldn't be any different. She then asked if the project across the street was adjacent to the creek. He said

yes, it was immediately adjacent to it - in fact it is on both sides. There are no soil problems there. The subgrades, etc. have all been tested by a geotechnical engineering firm and built to specifications.

Councilwoman Sitnick said that she respected Mr. Jensen especially since she knows that he serves diligently and as a volunteer on the Stormwater Advisory Committee and has a lot of good ideas. She said that from a technological point of view, when she viewed the site, it had been pretty dry and on the embankments, the ledges, that the existing units are built on in the first phases, she noticed that there were polka dots of mud, just circles of mud, that dotted those ledges. She wondered what that was due to. She wondered if that was done to put plants into those holes or just grass that washed away. Mr. Jensen said he couldn't answer without going out and actually looking at the site himself.

Councilwoman Sitnick asked Ms. Julia Cogburn, Planning Director, if she could tell her about the stormwater ordinance compliance for this proposed project. Ms. Cogburn replied that it was her understanding that they have not, at this time, submitted their storm drainage plan. They will, of course, have to comply. Or, if they have submitted it, we have not received the notification of the approval. In most instances, with projects this size, the developer will often do some preliminary work but will wait until the project is approved to invest the monies involved in doing the engineering work for the complete storm drainage plan. They will have to comply with the City's ordinance that Council adopted within the past year.

Councilwoman Sitnick then asked Ms. Cogburn for her opinion - given the topography and the prior phases, she knows that there was no ordinance when those phases were constructed, does she feel that our stormwater ordinance will be able to be complied with in a physical sense. Ms. Cogburn replied that she did and that the developer would have to because it is required.

Councilwoman Sitnick asked Mr. Cheeks if he knew what the grade of Avon Road is in front of where the driveway would go. Mr. Cheeks said they did a study over the grade over the length of the road from Tunnel Road down to Beverly Road and that grade was average of 7%. Based on the drawings that were presented by William Byrd who is the registered architect, there appears to be no appreciable elevation or contour change in the immediate area of the driveway. The driveway is stated to be 24 feet wide. What this means is that there would be no appreciable grade change in the immediate area of the driveway. By immediate area I mean 55 feet on either side of the driveway. So the overall grade average is 7%. From the driveway down to the intersection of Beverly Road is a 2% grade.

At the request of Mayor Martin, Police Chief Will Annarino reported on the calls for service requests in the Haw Creek area. While the report was being passed out by Police Captain M.W. Berry, Chief Annarino said that an analysis was completed of calls for police service in the Haw Creek Mews area and adjacent vicinity. For 1994 the Arco Road area had 15 calls for service, Avon Road had 10, Beverly Road had 44 and the Beverly-New Haw Creek intersection had 6 calls for service. The Mews Apartments had 35 calls for service, including four motor vehicle wrecks. We did a comparison of Haw Creek Mews call for service loads and two other fairly similar apartment complexes in Asheville, not in the same area but generally the same type of construction and population densities - one had 56 calls for service and the other had

17. He said that in the report handed out there is a breakdown of the different calls that we do have for the various areas including the Haw Creek Mews area. Out of the four motor vehicle wrecks, one was on-premise in Haw Creek Mews and the others were probably on Beverly Road.

Councilwoman Sitnick said that the airlines talk about near misses but she calls them near hits because it is really more appropriate. Is there any way of finding out any numbers to indicate how many near hits? She has never had any car crash, but she had had a couple of near car crashes. She wondered if that was a factor that's figured in as far as impact of traffic and impact of road safety. Police Chief Annarino responded that it is not factored in because they would just have the figures on the actual accidents themselves.

Support Commander Captain M. W. Berry said they tried to identify the individual roads and then the actual calls for service requested for those specific areas. The only thing lacking was the actual date of the request which seemed rather insignificant. He was also asked to pay close attention to the drug traffic in the area and there was no request in any of the vicinity or those apartments during the dates indicated from 1993 through March 15, 1995. He also looked at the area of weapons. There were two situations involving weapons during that period of time. One was a situation where they made an arrest in the Beverly Apartments and the other situation involved was at Mews Apartments and that was just a discharge - no arrest, no suspects - someone heard a shot fired.

Upon inquiry of Mayor Martin, Police Chief Annarino said that based on his experience, the calls area basically consistent with what you find in high density apartment complexes.

Councilwoman Field asked Interim Public Works Larry Ward why they don't have sidewalks at Haw Creek School. Mr. Ward responded that we did some work to improve Trinity Chapel Road when the new Haw Creek School was built and in those improvements we did look at putting sidewalks in there. We ran into problems with rights-of-way and the additional costs for that would not permit that to be done as part of that project. When we did do Beverly Road improvements, we did include sidewalks as part of that. If you look at East Asheville as a whole, there's probably just a fraction of one percent of all the sidewalks in the City are in East Asheville. You don't really have many out there. In Haw Creek the rights-of-way prohibit them and in a lot of places, places where they could be put in, we would like to do that but we don't really have a program at this time to start that - but we will be looking at it.

Councilwoman Field questioned Mr. Ward when he said right-of-way problems. Did he mean that the owners will not sell the property to the City so that we can put the sidewalks in? Mr. Ward responded that that is correct. The City could condemn the property to get right-of-way, but we choose not to do that. Mr. Ward said there are some property owners on Trinity Chapel that were willing to give right-of-way, but some weren't - so we would have ended up with just spots of sidewalks which probably would have been less safe than no sidewalk at all. Mr. Ward said we also looked at Miller Road and another road in that area that came real close to the school for sidewalks and that ended in right-of-way problems as well.

Councilwoman Field said then it is the City's policy to put sidewalks within 1/2 mile of a school. She confirmed that even though this is a County school in the City limits the City did try to put sidewalks in but they couldn't do it.

At 6:15 p.m. Mayor Martin announced City Council would take a ten minute recess.

The following individuals spoke in support of Haw Creek Mews, Phase III, for several reasons, which include, but are not limited to: the area being a safe neighborhood; it's hard to find affordable living in Asheville; wonderful neighbors; clean, well maintained appearance of the grounds; owners continually invest in improvements to the buildings and grounds each year; and the developer is willing to work with the neighbors:

Mr. Jerry Crow, representing developer
Ms. Lynn Hackett, resident of Haw Creek Mews
Mr. Fritz Brunhoff, resident of Haw Creek Mews

Mr. Jerry Crow appreciated Council bringing out in the open the question about prior comments of Vice-Mayor Peterson and Councilwoman Sitnick, both of whom I admire as far as their work on Council. Any comments I make I ask they not take them personal, but simply I want to protect the interest of my client. In the March 7 Asheville-Citizen paper, Mr. Peterson, you were quoted, whether accurately or not, with the statement that you're looking for four votes to defeat, Peterson said, you've pretty well got two votes here, you've got to lobby two more. That's preceded by the statement saying Peterson echoed Sitnick's comments. My concern is, and I believe rightfully so, is based on prior North Carolina case law that says a decision denying a special use permit is arbitrary and capricious if it clearly evidences a lack of fair and careful consideration or want of impartial reason decision-making. I guess I'll have to ask you whether or not either one of you were accurately quoted in the newspaper prior to this meeting.

Councilwoman Sitnick responded that when the paper said, and I appreciate your recognizing that the paper does not always quote accurately, when the paper said that Mr. Peterson echoed my remarks, I'm not quite sure what they meant by that, because I said nothing like that. What I did was I went to a public meeting that I was asked to attend, I listened very carefully, I was asked how do we go about expressing our concerns and I responded to that, I talked about getting facts, facts, facts, I talked about making phone calls, writing letters, making sure that people showed up for the meeting, etc. I indicated in no way what my decision was. I hadn't made a decision at that point. That's all I said. I can comment about what Mr. Peterson said but I think you would prefer if he do that.

Vice-Mayor Peterson said that it's not unusual for Council members to go to neighborhood meetings. That's what our job is. I think what I stated was that I felt sympathetic towards, and I did say that, towards the neighborhood and this group because I went and saw the road, Avon Road, and to me I have a lot of problems with the fact that it's narrow and there is no sidewalks and it really bothers me to have an entrance in and out, which I didn't even know that part. But anyway, I did tell the group, the neighborhood group that as citizens, they have the right to lobby Council people, I mean that is part of our government and I did tell them that they needed four votes. And I did state that I couldn't speak for other Council people but I said that I was sympathetic to what

I had seen so far. But I could not say for other Council members. But I didn't say that I was going to vote any certain way. If that helps clear everything up then I think, whichever way to say it, unless I left something out - I think most of these people were at that neighborhood meeting.

Ms. Gay Sprague, traffic engineering consulting business in Greenville, South Carolina, and registered engineer in both North and South Carolina more than ten years. Mr. Simon called me and asked me to look at a report that Mr. Cheeks had done because they wanted to know, because there had been some concerns expressed about the report, and if there were any problems, they wanted to know about them. I looked at the report and it was valid - the methods that all traffic engineers use, but also I asked if I could come and observe the site for myself, because I had used the information used in Mr. Cheeks' report. One of the concerns, as I understood it, was the days on which the traffic counts were taken, so I chose a Friday which is the highest day of the week. I came March 10, a beautiful warm sunny day. I felt that was the day most people would consider a reasonable day to take a traffic count. One of the problems, however, that I faced in doing my count was that some cars stopped, there were some tubes placed on the pavement to take automatic counts - I was doing an actual manual count (a click for every car) - and there were some tubes placed out on the pavement and cars would stop and back over these and then go back. One vehicle I saw do this twice and then noticed that this vehicle had come around the block a couple or three times. Later in the day I saw another vehicle doing that. So, I have absolutely no way to estimate what the effect of that was on my traffic count because I didn't notice the going around the block until somebody stopped and backed over the counter. What I did was go ahead and use those counts anyway to make sure that the analysis was still the same, even with those artificially high counts and the analysis still showed that both Avon and Beverly would operate acceptably with the trips from this new apartment. Let me make a very clear statement here about the questions about national averages and all that sort of thing and procedures - you have to have an objective way to analyze the impact of traffic on a road. As you can imagine I grew up in rural Anderson County, I live in Greenville now, what I thought was a lot of traffic while growing up is a different amount of what I think is a lot of traffic now. We, as engineers, have to have an objective way to analyze traffic impact and Mr. Cheeks' analysis and mine are the standard procedures for doing that. Both of them show that these streets would acceptably handle that traffic. I want to go over a few things that I noticed there on site. The afternoon peak hour is the time when both the street traffic and the apartment traffic is highest and that is the hour that I used to do my analysis. The trip generation equations that both Mr. Cheeks and I used are national averages, and once again I counted the traffic that was coming out of the current apartments and as I said, I actually clicked for every car, and that generation was within two cars of what those equations project. So those national averages bear out in this situation. Another thing I'd like to point out is that we keep talking about the number 598, generally 600, trips per day. I would like to just mention to you that that is 50 in the peak hour and 60 in the morning and 60 in the afternoon and from this apartment they have three ways to go. We've heard a lot about that there's only one way out, but that's of course for certain other parts of this neighborhood. But from this apartment there are three ways out - so that's 60 cars more or less, 30 coming in, 30 coming out. And they have three different ways to go. So you can see when you spread those over these three different ways to come out - Avon, Beverly to the west and Beverly to the east - that those numbers

are very small when you start looking it on an hourly basis which is how our analyses are done. I did see some pedestrians in the area. I was there from 7:30 a.m. until 6:00 p.m. and I did take two breaks in the mid-morning and mid-afternoon. I saw four pedestrians. One was an adult runner about mid-morning who was on Avon. One was an adult runner on Beverly in the afternoon. One was an adult pedestrian, I guess you would have to say he was kind of wandering around both those but going past the apartments. And then there was one young pedestrian who went toward the park in the afternoon. The other thing Mr. Simon asked me to look at was the fact that any development of this property would generate trips and I did look at that and the level of service would be the same whether you developed this with single family or as proposed with multi-family, as far as the level of service goes. One thing I didn't see, and this has been talked about today, that there is no speed limit sign on Avon. And I think that would be an appropriate measure to take on Avon to post the speed limit. I may have just missed it, so excuse me if I did, but I looked as carefully as I could and I did not see one.

Councilwoman Sitnick asked if it was customary to do analyses on weekend days, Saturdays, Sundays. Ms. Sprague responded that you can do that but afternoon peak hour on a weekday is going to be the highest. Councilwoman Sitnick asked even it was Sunday morning when people were going to church. Ms. Sprague said yes, especially when you consider the apartments.

Councilwoman Sitnick asked if Ms. Sprague did any analysis of the intersections, the intersection coming across Beverly down at the end of Avon or any of the entry intersections - the one I'm thinking of in particular is on Tunnel Road where there a the little piece of the road. We had a resident of the City let me know several months ago that there had been a real problem on the corner of Tunnel and Crockett, which I believe is right across the intersection from there. Our previous Public Works Director Jim Ewing did an accident analysis on that corner and I was amazed at the numbers, real high. Did you look at, and I don't know whether Mr. Simon asked you to do this, but did you look at any of the activity in that area. Ms. Sprague said that her emphasis was just at the site, at the intersection of Beverly and Avon, but I did ride all along that area. One of the reasons that I didn't look further at these other intersections was that once you get past the site, as I said, these numbers get to be really little, they get to be like seven new cars in the peak hours at one of these intersections, so it's really difficult to do an analysis that is sensitive enough.

Councilwoman Sitnick asked if there is a driveway access on Avon, do you analyze driveway use safety impacts? Ms. Sprague said that she did look at the site distance there and it was acceptable. As I said there also needs to be a speed limit sign there.

Mr. Crow said to Mr. Cheeks that reference has been made repeatedly that the intersection of New Haw Creek and Beverly Road is the second most dangerous intersection in Asheville. Do you keep statistics as to the most dangerous, or the second, or the third? If you do, could you enlighten us? Mr. Cheeks said that after he heard the comment at the Planning & Zoning Commission meeting, the Traffic Engineering Division was very shocked and they wanted to go out and make sure if that was true, that we addressed the situation. By addressing the situation, since it is a N. C. Department of Transportation intersection, I immediately contacted the State Traffic Engineer. He in turn sent me the traffic signal study for that intersection, as well as

the accident data. The accident data since 1987 has been only eight accidents at that location. The intersection does not meet the warrants for traffic signal installation.

When questioned by Ms. Maggie Lauterer about the time allowed, Mr. Crow said that he is trying to respond to the issues raised by Council relating to issues of floodplain and soil erosion questions. He believed Councilwoman Sitnick asked Ms. Melton to provide her with a written report. He asked that if any of these reports are going to be considered by Council, that the developer be given a copy also so that it may make comment regarding same. But in response to the questions as to the floodplain, drainage and runoff, obviously those are matters that the application will be made and the permit will either be granted or it won't be granted and it will be granted only if the developer meets those specifications. But, I would ask Mr. Jensen to come up in response to the issue raised by the architect on the preliminary drawing as to the change of elevation and the erosion impact that that may cause and also to address how does he design a development of this size and nature to ensure compliance with the floodplain ordinance since several Council members have raised that question.

Mr. George Jensen said that basically on the grading plan, which is just a preliminary grading plan, we're at the preliminary stage on the project. I think they have already made it clear that any changes made to this plan will have to go before the Planning & Zoning Commission before they are finally issued all their permits. Basically in reference to the grading on site, it does show one area of a 20 foot elevation difference which is not unusual. We had an excess of that on the other project and we have it on many projects around town. We will have stable slopes designed to be stable. As far as construction in the floodplain, we will have to comply with the ordinance. The structures will have to be up above the 100 year flood level. I just recently got through doing a storm drainage/erosion control plan for 18 acres over off of Old Haw Creek and we are designing in a retention pond to actually retain that difference between the pre-development rate and the post-development rate on the 10 year, 6 hour storm and that's incorporated in the design.

Mr. Crow then passed out four letters to Council from residents who reside in the apartments or surrounding property owners who are expressing their support for the project. He said he would like to point out the site itself and the existing neighborhood, I know it's a quiet neighborhood, I know it's a wonderful neighborhood, but realistically, it is a neighborhood that's been zoned R-3 for many, many years and R-3 allows and permits the use which is being proposed by this property owner. Please note that immediately to the south and east of the site please note the existing apartment complex called Beverly Road Apartments, this is the family Cornwall business here, this is the existing Mews site and this is the proposed site and you will notice on all the corners around the site and all corners at the intersection you have commercial usage of those sites and general support from those property owners. I point out also, we've talked a lot about the UDO and where it is and when it's coming. I think when you realistically look at this map, this area is not going to change even after UDO in this particular location. Other areas of Haw Creek may, but I think you have to realistically recognize that not only under the prior ordinance and then in 1977 when it was changed and for now practically 20 years since - this is a permitted use and is consistent within the area. I think also if you should look at your 2010 Plan and whatever significance it has. When the City Attorney is on the other side of him on condemnation

cases he's always flashing that 2010 Plan as if it meant something. If it means something, then it means planning efforts by the City and the planning efforts by the City indicate in that plan that your future growth by the year 2010 is going to be met only by multi-family housing. It's the only way you're going to have it. And 60% of the growth is going to have to be serviced by it. This developer has met every requirement required and there are numerous just to get to this stage. It has met the water requirement, it has met the fire requirement. You will notice from your police report and public safety report the fact that more calls have come from the surrounding neighborhood than from the Mews Apartments.

Councilwoman Sitnick said that she was sorry that the people who wrote letters of support were not able to be at this meeting, but she appreciated Mr. Crow bringing them in.

Councilwoman Sitnick then asked Mr. Crow for a list of the developers which we was to have furnished to her. Mr. Crow responded that he had been on vacation but that the developers are the Simon family.

Councilwoman Sitnick said that there has been indication by some of the speakers about LaMancha Apartments and three lawsuits. She asked if those were erosion lawsuits. Mr. Crow said that he did not represent the developers at that time and but he believed they sold the LaMancha Apartments around 1983 and he presumed these lawsuits may have pre-dated the sale. Certainly the disposition of the lawsuits are on record at the Courthouse. Councilwoman Sitnick said the reason she asks is that someone earlier said that there had been three lawsuits, hundred of thousands of dollars, and the developer lost three times in Court. She said if it was something unrelated to this project, then she didn't need to hear about it. She just wants to know if it's erosion related or any of the issues brought up today.

Mr. Britt Simon, representing developer, said as far as these three lawsuits that were hundred of thousands of dollars, he didn't know of any lawsuits during the period of time that we owned the property. I do know that after we owned the property, or from the period of 1972, 1973 to 1982, 1983, when we owned the property, it had a good name in Asheville. Subsequently when we sold the property for estate purposes, it was a one-time sale within our company. It went through various different owners and they did not keep the management up and I think that's why it has the bad stigma in town.

Councilwoman Sitnick then asked Mr. Simon if he had a North Carolina Contractor's License. He replied yes.

In response to Councilwoman Sitnick about whether they own the land, Mr. Simon said they have an option on this land. Carolina Power and Light is actively marketing this property for sale.

Councilwoman Sitnick then asked Mr. Simon if he was involved with Phase I and Phase II of the Haw Creek Mews. He said he was there throughout the process. She then asked him about the polka dots on the embankments. He said that Harvey Huntley from Huntley Construction, who is a very respected grading, utility contractor in the area, is the contractor who developed all of the utility and grading. He planted a special grass that is called les pedeza, which is very typical for slopes, to retain slopes, and it grows in clumps. He thinks what she's

seeing is clumps and also a combination of maybe when we had some freeze. When the ground freezes, there are some weird looking circles on the lawns out on the property. We are continually in the process of re-seeding our property. It is a young property, only two years old in some parts of Phase II. And it's an on-going process. You don't instantly have beautiful lawns - it's a process that takes maturity.

Councilwoman Sitnick said that it had been indicated earlier that there had been several, that Phase I and Phase II had been cited for erosion control and sedimentation violations. I understand that those were all corrected. Do you know why those problems existing in the first place? Mr. Simon responded that he wanted to clear up a lot of these misconceptions and a lot of these character assassinations that have been forthcoming. We graded 18 acres, which is a fairly large size of land. We moved 80,000 cubic yards of material. Again, Huntley Construction. It's very typical in the construction industry that when you move soil of that nature, you're going to have some runoff. You're going to have some days when it's going to rain for two or three days and silt fences and all of the protection that you put in, according to the City's standards in the erosion control ordinance, can overflow and we have problems. That's why we have erosion control inspectors. They come out typically after the rains to check your site. They come out, instruct the superintendent, you've got some runoff, you've got three days to get it cleaned up. We cleaned it up. It's their job to come out and take a look at the site. Again, it's very typical, we were never fined by the City of Asheville ever during the course of Phase I and Phase II for any erosion control violations. She questioned the silt fences still up. He said typically you can leave the silt screens up and the grass will grow over it. Again, we are still not finished. We intend to bush-hog and clean up the whole area around the creek, take our silt fences down, make it look like a park area down along the creek area. It's still not finished. You'll be pleasantly surprised when you see it in the finished stage.

Councilwoman Sitnick said that as a member of the Tree/Greenway Commission, when you leave trees their roots prevent erosion and we heard an incredible presentation by Habitat for Humanity and saw photographs of a project that they did where they built the houses within the trees. They removed hardly any trees. They removed the trees for the footprint and that was it. And they had no erosion problems. As a Tree Commission member I would just encourage you that when you build these projects, or subdivisions, or group developments that you leave as many trees as possible - it'll save you money on erosion control. Mr. Simon responded that the Miller property was 3/4 grazing pasture with maybe a couple of apple trees. It was all cleared. The other quarter of it that faces the northeast was wooded and I can't tell you how many acres it was, but there was wooded area there and we cleared that area because it was in a fill area. We saved as many trees as possible. We love trees too.

Councilwoman Field asked Mr. Simon about the comments of him being an out of town developer. What are your connections to Asheville and why are they here in Asheville? Mr. Simon said that back in 1925 - his father was born in Asheville, his father moved from Charleston, South Carolina, he had TB and he moved up here and lived here for 15 years. My father lived here until he was six or seven years old. My father, throughout the course of his life, has built a reputation, and a very good reputation, as a very well, very prominent apartment developer throughout the southeast. In the 1970's he came back to Asheville and he built LaMancha, amongst other good cities in North Carolina that he

saw were good growth cities. That's why we came back to Asheville, North Carolina. In 1990-91, we decided to re-visit Asheville, North Carolina. there's a second generate involved. We are a family run operation. We are not a syndication, we are not "the out of town developer". We have regional offices in Knoxville, Tennessee, just 70 miles away. Our regional property manager there has Huntsville, Knoxville and Asheville in her region. We don't consider ourselves out of town. The owners of the property, there is seven family members - all brothers and sisters, there's a brother-in-law and my father. Marvin Simon, Ben and Britt Simon, my sister Kim Simon, Amy Goldberg, Jeff Markman and Andrew Fink.

Councilwoman Field said there was a comment earlier about the Mews being 65% occupied. Could you comment on that? Mr. Simon said that Phase I is at 92% today and Phase II is 74% today. When Councilwoman Field asked if he knew where someone would get the figure 65%, Mr. Simon said it was misinformation.

Councilwoman Field said that Mr. Simon is pretty much correct about erosion control in that if you meet the standards and there's a major rainfall, you may well have some runoff into the streets. She has a project that just got graded right before the big rain about a month ago and we got cited. She was just saying that if, indeed, you have fixed it every time you have been cited, she has sympathy for him. Mr. Simon said that the City of Asheville's erosion control ordinance requires that when you fill, you have to have soil analyses and they have to meet a certain percentage rate. That has to be given into the City. And we had those soil analyses taken in our Phase I and II. He said he wished we didn't have to talk about Phase I and II so much and defend ourselves because he feels they've complied in every regard there. And they will do the same thing here on this project. Another thing is that the group development process in the City of Asheville allows you to take your project up to a point and through City Council approval contingent upon "fully engineering drawings" depicting the design layout of your water line, which gets reviewed by the State of North Carolina, your sewer line, which gets reviewed by MSD, your stormwater - all of this has to be reviewed and designed by professional engineers. That should not be a big concern here because we have a letter that says there's plenty of sewer allocation, we've been allocated the sewer capacity by MSD. There is a ton of pressure, right there where we are, for water. It's unfortunate that way back at the mountain Sondley there isn't much pressure, but where we are, we have to spend extra money to have pressure reducing valves - because the pressure is so strong. Mr. Jensen, who is former Chairman of the Stormwater Committee, will be designing our stormwater retention/detention. I can't think of a better person to have design that so that the water that's running off the site today will runoff at the same speed as when it's fully developed. That's what the stormwater ordinance is supposed to do.

Councilman McClure said that he knew there was a community meeting held on January 26 and wondered how many people attended the meeting from the neighborhood. Mr. Simon responded that he contacted Barber Melton, the President of the Haw Creek Civic League, to have this meeting. There were eight people at the meeting. We had it at the Haw Creek Mews Clubhouse. He felt that the meeting was somewhat productive in the fact that Sarah Harris, who lives on the southern property line, vented her concerns - she was very concerned about what was going to happen to that piece of property - crime, safety. She wanted to know what was going to be between her house and the apartment project. I

explained to her the several options that are available for buffering and what we had intended was going to be a landscape buffer of evergreens. She voiced some concerns about that. I told her there was also a combination of berming, trees, or you can go with a fence. She said she liked that idea. I told Sarah Harris that we would offer to put up this fence - 423 or 433 linear feet - along the entire line. That was pretty beneficial to keep with the neighbors, because I felt like we have done some other things above and beyond with staff. But to keep it with the neighbors I feel like this project should be a win/win situation. It shouldn't be a win/lose situation and I've wanted to compromise, I've wanted to work with the neighbors and they just have come back with a lack of compromise. I called Barber Melton last week and asked her is there anyway we can get back together and try and work some things out. Good things come out of discussion. Nobody wants to talk - they just want to be confrontational and they want to be - they just don't want to see anything being done to this piece of land, is my opinion. I feel like they'd rather see it wooded forever. We just don't live in a perfect world - progress and growth is inevitable. It's good for the City. Again, on January 26 we met and again on March 15, I tried to organize a meeting.

Upon inquiry of Mayor Martin about if Mr. Simon is willing to go to additional meetings in an effort to talk with the community, Mr. Simon said that he also said in the meeting on January 26 that he would be involved as intimately as he was involved in Phase I and II. We created a liaison committee which represented three members from the neighborhood, one member from the developer (myself), and Gerald Green from the Planning staff. We met on a scheduled basis to let the neighbors know what was going on and kept them abreast. I told them I would do that.

Councilwoman Sitnick said that she had the record of the Planning & Zoning Commission meeting in front of her and he did explain it as he just did at the Planning & Zoning meeting. Mr. Mayhew, one of the members of the Commission, asked you if after you talked to Mrs. Harris about the fence, and how you accommodated her, whether or not you had told Mrs. Harris that did she realize that there was going to be a three story building next to her house. And you replied no, you had not told her that. Now if you're going to talk about talking with the neighbors and keeping them abreast, then you have to tell the whole story. Mrs. Harris has indicated to her that she didn't know that there would be a three story structure next to the fence you were willing to accommodate her. We have to be very clear that all the information is given, not just some of it. Mr. Simon responded that he showed them this plan and (by pointing out on the plan that was on the bulletin board) he pointed out the name Sarah Harris which was on the plan, actually it says Carl Harris. It says clearly on the plan, three story building. What he said at the last Planning & Zoning meeting was when that question was asked of him, I said I was getting bashed by the neighbors and "didn't get a whole lot of time to get into a lot of the specifics." Councilwoman Sitnick said that was a very important specific. Mr. Simon said that the ordinance allows us to build three story, they allow you to build 31-1/2 feet in Asheville. He said he was not trying to hide anything - the staff knows about everything on this plan and they've had ample opportunity to go down to staff and I know they have, but for other purposes, to just dig up bad stuff about us. But if they went down and talked with Patty Joyce, who's very informative and is very resourceful, she could have sat down with them and explained. Or if they would have called me on the telephone - we've been going through this since early December. We submitted our plan back in December and

were reviewed January 6 by the Technical Review Committee which allowed all of the folks down at the City to look at our plan, make their comments and sit down with the developer and work out those comments.

Councilman McClure said a lot of concerns have been expressed regarding safety. He asked Mr. Simon, in his development plan, did he take into consideration any safety concerns, such as sidewalks, the 18-foot Avon Road, or pedestrian traffic. Mr. Simon responded that he did. We originally showed one entrance on Beverly Road. We showed an optional entrance onto Avon Road, which we were maybe going to have an exit only. But it was written on the plan optional. When we met with Public Works at the Technical Review Committee it was their recommendation that they felt, in the interest of safety, that the entrance be made a permanent ingress/egress. We accommodated them. We said that would be fine. We have gone to an additional expense of hiring an independent traffic engineer to alleviate the concerns of the community about the City Traffic Engineer, who I feel like has done his job. These are professional engineers. Regarding sidewalks, the Public Works Department reviews our plan and they are responsible for streets and sidewalks. Larry Ward and James Cheeks reviewed our plan. Sidewalks are not a mandatory item in Haw Creek. Mr. Ward stated that it's a very, very small percentage of the total sidewalks in the area. The roads are narrow - there just aren't any sidewalks and Beverly Road is probably the only sidewalk in Haw Creek. It was not a requirement of us to carry that sidewalk around the property. I would like to say though, I want to make amends with the community and I want to work with the community. I feel like they really haven't wanted to work with us, i.e., being confrontational, lack of compromise. But we would be willing, and I talked with Larry Ward earlier about this, we would be willing to contribute a sum of money towards a sidewalk up to the community center. The City would have to take the rest of it up there. We cannot afford to build a sidewalk from Beverly Road to the community center. These are things that should be coming out of communications from the neighbors, instead of all this character assassination and all this blowing up.

Councilwoman Sitnick asked James Cheeks, in his opinion, when the Technical Review Committee recommended an additional driveway access, was that because the driveway access off of Beverly would not be sufficient to accommodate 98 units? Mr. Cheeks responded that they felt that the impact of 598 vehicles a day at that one driveway, at that proximity to the intersection of Avon Road, would not be appropriate for this type of development.

Mr. Crow said that we want to answer any of Council's questions and if we have not, please ask them. You've had the pleasure of sitting through two of these meetings, but your questions are good and we want to answer them and be forthright to any of you with respect to these answers. In summary, we feel the project qualifies. In summary, the roads are 18 and 24 feet considered to other projects you have approved and I don't think you'll find the roads any wider. I know on Overlook Road, an 18 foot road in South Buncombe, you approved major, major development around my home on a road that is hardly qualified for that amount of traffic. But that's Asheville, North Carolina. Unless you amend your zoning ordinances and put in there a requirement that roads be such and such a width, you're either going to have to put a moratorium of any type of growth or otherwise deal with the topography in existing conditions. I think sidewalks were tried to be put on Trinity Chapel Road going up to the school but you couldn't get the

right-of-way. That's the nature of our people. We won't give the right-of-way for the roads to be widened, we won't give the right-of-way for sidewalks - we want somebody to pay for them.

Ms. Jane Gianvito Mathews, co-liaison from the Planning & Zoning Commission to the City Council, said that she did speak with Ms. Graham (Chairman of Planning & Zoning Commission) and she will try to briefly give Council a synopsis on the two opposing views. It was, as you are facing, a difficult decision and it was a divided vote of 4-3. Those in favor of approval of this group development application felt that the applicant's plans met the development standards as outlined in Article 6, Section 30-6-1, section (c) of group development criteria. These criteria include density, street access, roadways, parking, drainage, and landscaping. They interpreted these standards to be quantifiable, non-subjective criteria against which to judge the approval of this project and based on that criteria they felt the project should be approved. Those in opposition based their votes to deny this project on several factors. They also justified their vote against the same article, same section, not the same item. They took into consideration not only the development standards, but the ordinance's description of intent. She would not reiterate that because it's been mentioned here before. For those holding the opposition opinion, this was seen as a broader guideline from which a more subjective review could be undertaken and justified. They felt that the Commission was responsible, not only with the zoning, but with the planning of our community. Among the concerns of the opposition was that the underlying density of the zoning is, and has been for some time, inappropriate to the overall character of Haw Creek and that further development of this type will be detrimental to the overall welfare of that particular community. It was their opinion that this position was further reinforced by our City's comprehensive plan, which clearly called for this area to be developed as low density residential. They also stated their request by the Haw Creek community to bring their zoning into compliance with the 2010 comprehensive plan was repeatedly put on hold in anticipation of the UDO and the opposition felt that failure to act on the UDO should not penalize residential communities or put them in jeopardy of losing their community character. And finally, the opposition asked a question of criteria on which evaluation of everybody's safety is based and also how that criteria is measured regarding its impact. The current standards look at the capacity of the road to physically handle the traffic but establishes no criteria for quantifying the increased traffic's impact on the quality of life on the uses along vehicular corridors and in this case, residences. They were concerned that the impact of traffic on a commercial strip versus a residential strip are weighed the same way on width, grade, number of vehicles, but not on quality of life and they felt the impact of additional traffic on the quality of living and quality of life of surrounding neighbors was enough justification for denial. Again, the staff has pointed out to you, it was a 4-3 vote with three conditions of staffs and one additional recommendation of a condition by the Commission which was if any changes were made to the submitted plan that it would come back to Planning & Zoning Commission for review and approval. There were issues that came up during both hearings, as you know we did meet twice on this issue, that various commissioners questioned and got responses. Some of those things have been brought up here today. The issue of buffering versus the fence was one issue. The issue of childrer who would be crossing the road to a pool area at the area development was taken care of because the developer added a pool on this particular site. Grading, which was brought up previously, and the preservation of trees was an issue that was discussed. Some

commissioners felt that maybe the intent to save trees was being negated by the grading, that it would not be very feasible to maintain trees given the amount of grading. The other was retention basin, and Mr. Jensen spoke about a retention basin in the area that's designated as near the flood fringe area.

Councilwoman Sitnick, addressing Ms. Mathews, had a concern about the driveway access on Avon and Mr. Crow just confirmed the difficulty on a road like Overlook and this is a similar road. I wanted to ask you about something that was discussed that day. Two things came up. Number one - the issue of the environmental impact statement which is not stated in the body of the ordinance but is a must in the group development checklist - it's number 15. It was indicated, and correct me if I'm wrong because I didn't hear everything that was said by Patsy Meldrum, that the environmental impact statement was originally part of the ordinance and then because it was difficult to get compliance, it was removed from the ordinance and instead certain development standards were inserted in the ordinance that would require compliance with certain environmental impact questions. However, the EIS was never removed from the checklist. So, I had a concern about that and while it may not be relevant to this issue anymore, I think we need to look back at either putting the EIS in there and if it wasn't complied with because nobody bothered with it, then maybe we need to require it with some teeth so that it is complied with. The other issue that I want to ask you about, and I'm going to read it, because it's been brought up several times, and for me it's the cross-over point and it's been referred to as the preamble and it says it is the intent of this section (meaning the group development section) to encourage the flexibility and innovation in the design and location of structures and land development. It is further intended that these developments will be in harmony with the character of the district in which they are located and that adequate standards will be maintained pertaining to the public health, safety, welfare and convenience. Now it's my understanding that there's a judgment factor having to do with that preamble. And the other thing is the word harmony is subject to interpretation.

Ms. Mathews said that Ms. Meldrum did a good job at trying to explain that to the Commission and even in her attempt to explain it, I think it left it vague to some of the commissioners. I think at one point I would need to refer to the minutes, but we were asked if this could be interpreted more broadly and I believe her answer was yes, it could be interpreted to have a more broad discretion on the part of the commission. The question was raised in light of the denial motion, not in terms of an approval motion. She did go into some detail about that. She said that she has not personally seen an environmental impact statement for at least seven years. I remember staff mentioning that there were problems with that and I remember, as a citizen, the problem was that it was being done by the developer so it's independence, in terms of an evaluation, had some problems. Council may want to look at that if it needs to add back that factor - but we, on the Commission, haven't seen one for the 1-1/2 years I've been on the Commission.

Councilwoman Sitnick also asked City Attorney Slawter to respond. Mr. Slawter said there is some case law in that area and in particular there's a case from Chapel Hill that deals with an application for a special use permit, in which the court discusses language similar to language included in our ordinance. It talks about how you mesh together the specific standards in an ordinance such as those specific standards we have in our ordinance, along with language related to general health, safety and welfare. That language read, from the case

of Woodhouse vs. Board of Commissioners, once an applicant shows that the proposed use is permitted under the ordinance and presents testimony and evidence which shows that the application meets the requirements for a special exception (which would be similar to the requirements for a group development permit) the burden of establishing that such use would violate the health, safety and welfare of the community falls upon those who oppose the issuance of the special exception. So, under our circumstances I think the developer has the initial burden of showing that they meet the specific criteria set forth in our ordinance and the general consensus seems to have been that they have done that. The community has raised additional issues which they find objectionable and in their opinion, I suppose, detrimental to the health, safety and welfare which would kick in that preamble and constitute cause to deny the group development permit. Whether the evidence that is presented by those opposing the permit rises to the level of being sufficient to counter the presentation by the developer that they have met the standards does, to some extent, include some subjectivity. However, the evidence that's presented, needs to clearly show detriment to the public health, safety and welfare, if a permit isn't issued because the objective standards set forth in the ordinance have been met.

Mr. George Jensen said that as a professional engineering he is charged with protecting the health, safety and welfare of the general public. That's his charge and that's how he got licensed. I take the public's consideration into my work. I would like to say that basically we don't have a problem with water, we don't have a problem with sewer - I called up MSD today and talked to them, they have no problems with their mainlines, they have a lot of private collector systems out there that are having problems, but this project will tie into their main line, not into the private collection systems out there that they are having problems with. You've heard the traffic studies - there are streets in Asheville that have an excess of 22% grades, Osborne Street right off Merrimon Avenue, there are streets in Asheville that are 14 feet wide, 16 feet wide, no sidewalks. You have Lakeshore Drive that there's no sidewalks on. They've shown you that the level of service is fine for the road that is there. Erosion control, storm drainage, retention/detention, floodplain ordinance - all those things will have to be met and approved by the City staff before we can move the first shovel full of dirt on the project. When you talk about harmony, basically there's a development right across the street from this. It's zoned properly, it's zoned R-3 and they're not even putting in as many units as they possibly could under that zoning. I think we've clearly shown you that we're going to meet all the requirements of the ordinances.

Mr. Simon spoke to the harmony of the neighborhood. He wanted to point out on this plan that on the part of Haw Creek closest to Tunnel Road is mixed use - it is not all single family residential neighborhood. There are existing 38 apartments called Beverly Apartments, a business and three commercial general areas. On Arco Drive there are duplex apartments. When you go down Old Haw Creek Road there are duplex units along there. We are 1/10th of a mile from Tunnel Road where you have a multitude of commercial uses. This upper end of Haw Creek is in harmony of the neighborhood. It is mixed use. In the R-3 definition of Section 30-6-1 you will see that it talks about allowing 16 units per acre, allowing the intensity to be increased - and that's what we're zoned. We are legally zoned for 16 units per acre. We're not building 16 units to the acre. We're not asking for a variance and we're not asking for a rezoning. We're just asking our due process for the land that we are legally under contract right now. We

are asking to be allowed to do what the City ordinances say are in place today. Again, we meet all of the requirements - we're not asking for any special treatment. One last point is that we have a lot of people coming up, and I sympathize with the neighbors, and they are speaking on behalf of their lives and what affects them. I would like to read real quick a mix of employment - people that live at the existing apartments here - they come from all walks of life - there are a lot of professionals, there are doctors, there are nurses that are employed at our hospitals here, the list goes on and on. They're voting citizens. I think you have to look at the people that live there - not everyone is fortunate to own a home, they have to go up the employment ladder of life and they have to rent an apartment - I'm sure everyone in this room probably has rented an apartment sometime in their life or maybe some of you have.

Mr. Crow responded to a question raised by Councilwoman Sitnick as it related to Ms. Mathews. He asked that Councilwoman Sitnick read the minutes of that meeting. Only one person gave a reason for their negative vote and that was Ms. Mathews. Please read that carefully and I think if you ask Mr. Slawter, that would be without legal foundation.

Mayor Martin closed the public hearing at 8:12 p.m.

Councilwoman Sitnick said that she wanted to make a motion but she wanted to confer with the City Attorney to make sure that she does it properly. My motion is going to be based on several things. First of all it's going to be based on the intent of the law and the statement in the preamble especially as it refers to safety and welfare. I'd like to base it on the fact that a provision for judgment is part of this. I would like to include the appropriateness for the use of the land. There's a real problem for me in the fact that on two different occasions members of this community, residents of this community, came forth to request a zoning change. And they weren't denied the request, anybody can come forth and make a zoning change request, but they were encouraged to wait because of the UDO process that was on-going at the time. In effect, it seems to me that the community is not only paying for 20 year old laws that may soon be changed, but in part are paying for the fact that they could not move forward with their rezoning request. So, my motion will, given the evidence, put in the record today, in spite of the report from our traffic engineer, there has to be some judgment on my part to rely on the accidents, the near accidents, the discomfort in driving, the safety issues on the streets, and the driveway access onto Avon. I spent, other than the time that I toured the actual sites, I've spent three other occasions, multiple hours each, observing the roads and they are a mess. The ordinance and our charge is to provide for public hearings. The purpose of a public hearing is to have input from the public. We've had 35 speakers, two of whom have spoken in favor of the project and 33 of whom spoke against it. Not that I am saying that I think that the public or mass opinion should create approval or denial, but it's our job as members of Council, to listen to our advisory commission, 4-3 is not a mandate, we've listened to the public and I'm very concerned about the multiple safety and welfare issues that have been brought into the record today. This is very hard, it's a hard motion. We have a developer who has complied with our laws. And we have a situation that exists now that has created a conflict and a question regarding public safety and welfare.

Councilman McClure sympathized with everything Councilwoman Sitnick has said and asked her if she would entertain a substitute motion.

Councilwoman Sitnick said that in spite of what you might have felt from the newspaper article that reported on the meeting, I had not made up my mind at all, but the safety issue - you know we denied another project because of a safety concern and everything was complied with - safety is probably one of the primary charges this Council has. We are employed by the citizens of this City to look out for their safety, for their comfort, for their welfare, for their basic services, and I'm having a real hard... I would like to move to deny the application for the site plan, for the Haw Creek Mews Phase III apartments based on concerns for the safety and welfare of the surrounding neighborhood. Vice-Mayor Peterson seconded the motion.

City Attorney Slawter commented that this goes toward what Councilwoman Sitnick was asking him about in the beginning and that is the specifics of what you're basing the motion upon. Given the fact that statements have been made by staff and others that the objective criteria of the group development ordinance have been met, I think it's incumbent upon those challenging that ordinance to show by clear and convincing evidence some ways that approval of the permit would be detrimental to the public health, safety and welfare. Some compelling evidence to that effect, in some specific ways, rather than merely a general statement that it's not consistent in keeping with health, safety and welfare because the objective criteria of the ordinance are elements of what this Council has previously determined to be consistent with health, safety and welfare in that this Council or an earlier Council has established those criteria to be followed and they are being followed. Yet in some circumstances perhaps there can be unusual concerns that can go beyond that and raise an issue of real concern about health, safety and welfare going beyond those objective criteria. But I've heard discussions of water pressure and fire hydrants and crime and other matters have been raised and I've also heard statements from the Police Chief and the City Engineer and the Traffic Engineer countering those points. I think that to the extent that Council could zero in on specific points that this project would be detrimental to the public health, safety and welfare beyond those objective criteria, the motion would be much better stated.

Councilwoman Sitnick then restated her motion to move to deny application for the site plan for the Phase III of Haw Creek Mews Apartments based upon the fact that there are no sidewalks and that the school children would be impacted by increased... I base my motion on the traffic concerns on Avon Road and the driveway access ingress and egress on Avon Road and on the erosion problems that will be created. This motion is based on safety. Safety of the automobile traffic, pedestrian traffic, on the increase of traffic and the welfare of pedestrian use of Avon Road. Welfare and convenience can be based on other things.

Upon inquiry of Mayor Martin if Councilwoman Sitnick's motion meets the requirements, City Attorney Slawter said that was a difficult question to answer. The concerns that the neighbors have and the concerns that are being expressed by Councilwoman Sitnick are matters that go beyond the specific criteria set forth in the zoning ordinance related to group development approval. If Council chose to pass a motion denying the group development approval, then the more specific criteria that can be included in the motion with concerns for which evidence has been presented here today, that would display detriment to the public health, safety and welfare, the more of those components could be included. There have been an awful lot of things said about a lot of different topics and to the extent any of those that for which there is evidence that could show detriment to the health, safety and welfare would be helpful.

Councilwoman Sitnick said that she could add in her motion that we were informed that there was enough water for fire flow but were also informed that water pressure varies and with the addition of 98 more units that the water pressure will be affected. Vice-Mayor Peterson agreed to Councilwoman Sitnick's restated motion.

Councilman McClure said that the understood where the City Attorney was coming from on this, and he has some serious questions about the water pressure and the number of hydrants out there. We heard Chief Rukavina say that we really haven't heard from Mike Holcombe in the Water Department. Traffic - I sat out there and watched the traffic myself so I know. I know what traffic counts show and I have a planning background and I know a little bit about that but I know that there is a tremendous traffic problem out there. One thing that I am concerned about is the specifics of this. Right now I'm not sure that we have all the specifics. I know that I have a lot of doubts in my mind and what I would like to throw on the table is a substitute motion that we table this for 30 days with the understanding that we are not giving up any options whatsoever, we still have the option of either approval or disapproval, but this gives us some additional time to maybe get more specific in what we're looking at. Also, I heard the statement of misinformation and mistrust and the neighbors feel like they've been lied to, I don't know if there is a compromise position or not. I don't know. But it might be in everybody's best interest to sit down and see if there is a compromise. If we don't change opinions, then we're 30 days down the road and it's 30 days more that that property exists as it is now without additional traffic, or whatever. So I would like to throw out a substitute motion that we table this for 30 days and then bring it back to Council at that time.

Councilwoman Field seconded Councilman McClure's motion. She said that everything she has heard brought up today has been countered in some way or another and I think that what we need to do is to get the facts. I need, before I vote, to be absolutely sure that I am voting appropriately and fairly for both the developer and the neighborhood. I know that there are a whole lot of my friends out in the audience which are members of the neighborhood, but I don't feel comfortable right now with the number of counters and questions that are out there. I agree with Councilman McClure that I would like to at least have a chance to sit down with Mr. Slawter and with the staff and get some answers.

Councilman Swicegood said if the substitute motion passes which I will be voting for and letting the neighborhood know that I'm pretty much in favor of the development today. I'm not going to carry you through the next 30 days wondering where one vote is. If nothing else changes, that's where my vote will be - for the development to go in. The one thing I would like to say though to the Simon family is that during this 30 day period, I would expect for you to truly work with the neighborhood, be honest, totally open and get everything on the able. And also I'd like to see what kind of money that you are talking about on the sidewalks even though it is not a criteria for this development. I would like to see what kind of money you are willing to give the City. I want the neighborhood out there to know where I stand if it was voted on tonight - I would be voting for the developer. However, I would like to see a 30 day extension so you can try to work out maybe a little less density of the apartments, but that's where I stand.

Vice-Mayor Peterson said that he could vote today for himself. He has decided pretty much which way he will be voting. He doesn't need 30 days. If it's the pleasure of Council to wait 30 days, it's fine. I seconded Councilwoman Sitnick's motion that we deny.

Councilwoman Sitnick said that she didn't need 30 days either. I've spent a lot of time out there. There's a safety problem. Pure and simple. I don't care what the studies say. I don't care what the numbers say. There's a major safety problem there and my allegiance is to the residents of this City in respect to a developer who is an investor and you have that right, and all of that. I'm willing to wait 30 days. I am a great proponent of developers getting together with neighborhoods to see if things can be worked out, if fears can be allayed, but I go on record today as feeling that there is a factor in our ordinance that gives us the right to exercise our judgment and if anybody has spent the three days out there, other than looking at the sites themselves, watching the road, watching the traffic, watching the cars dart and dash, forget the throwing of trash at dogs, forget all of that. I can't say that all these people came in here and made these stories up. I've been pretty convinced by the evidence that there is a problem out there as it exists today. For me to compound that problem by approving a site that is going to add 98 more units and 600 more cars, I will be very, very surprised if I am impressed differently at the end of 30 days. In deference to my desire to have developers work with neighbors, and you can smile at this sir, but I have read the minutes from P&Z, I was there, and when Ms. Winner asked you why you're building this, you're answer was very simple - it's an investment and you do it. Other investments for the City is the property values and domestic tranquillity of all the residents who already live there. They also have made investments. Not as much as yours. I am making a speech because this has been a gut-wrenching, heart-wrenching difficult decision for all of us. I'm willing to wait the 30 days in respect to my fellow Council person and respect to a developer who has complied with our ordinance, although be it, not a very good ordinance. And I would like to see that changed, I'd like to see an EIS put in, I would like to see a speed limit on Avon Road and I would like to see sidewalks at Haw Creek School.

City Attorney Slawter asked Council to be more specific in the motion to table this matter. Councilman McClure then moved to amend his motion to table the matter until May 9, 1995, at 5:00 p.m. Councilwoman Sitnick agreed with the amended motion. On a voice vote, the motion carried unanimously.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-44 - RESOLUTION DENYING TAX PROTESTS FILED BY PROPERTY OWNERS IN THE BREVARD ROAD ANNEXATION AREA

City Attorney Slawter said that the City and the Tax Collector have received several protests from property owners in the Brevard Road Annexation Area related to recent tax bills.

He explained to the Council that the final ruling of the North Carolina Supreme Court regarding the Brevard Road annexation was on May 5, 1994. The statute which prescribes the effective date for an annexation prescribes that "if part or all of the area annexed under the terms of an annexation ordinance is the subject of an appeal to the superior court, the Court of Appeals or Supreme Court on the effective date of the ordinance, then the ordinance shall be deemed amended to make the effective date with respect to such area the last day of the next full calendar month following the date of the final judgment of the superior court or appellate division,..." Based upon this provision, we determined the effective date of the Brevard Road annexation to be June

30, 1994. That is the date on which the City began providing municipal services to the area. The property owners which have filed tax protests contend that the effective date of the annexation was not until November 30, 1994. This is based upon the fact that, after the ruling of the North Carolina Supreme Court, the petitioners challenging the annexation requested the United States Supreme Court to hear the matter and the determination from the United States Supreme Court that they would not hear the matter was made on October 6, 1994.

The amount of tax being protested by those property owners filing protests is based upon their assertion that they should not be taxed for July, August, September, October and November., 1994.

N. C. Gen. Stat. sec. 105-381 provides a method by which taxpayers can challenge a tax that has been done in this instance. The statute provides that, upon receipt of such a challenge, the governing body shall either (a) release that portion of the tax that is determined to be in excess of the correct tax liability; or (b) notify the taxpayer in writing that no release or refund will be made.

If the Council were to determine that the protests should be honored, other taxpayers in the Brevard Road Annexation Area would also be entitled to refunds. The Audit/Budget Director estimates that the total amount involved is $200,000.00.

Our recommendation is that the Council direct that the protesting taxpayers be notified in writing that no release will be made. If the Council concurs, then the protesting taxpayers are required by statute to pay the tax and may thereafter institute a civil action for a refund.

Mr. Jerry Crow, attorney representing the protesting taxpayers, felt that the effective date of the Brevard Road annexation should be November 30, 1994.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-44. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 229

B. RESOLUTION NO. 95-45 - RESOLUTION EXTENDING TIME FOR A DECISION REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Assistant City Attorney Patsy Meldrum said that TCI is seeking approval of its annual adjustment to update equipment and installation charges for the basic service tier and approval of an inflation adjustment to the basic service tier rates.

City staff only recently received a copy of the new regulations adopted by the Federal Communications Commission and recommends, pursuant to the authority granted by the FCC regulations, that the time period for review of the proposed rate change be extended.

Ms. Meldrum stated that the Mayor had asked a question about if the City Council could stop reviewing these rate requests and to no

longer regulate the basic service tier, what would happen. She has looked at the FCC information on this and in a publication dated May 7, 1993, the FCC states that if a city's certification to regulate rates is either denied or revoked, there is a procedure whereby our certification can be revoked, then the FCC will step in and regulate the rates. If we demonstrate that we are unable to do so largely due to not having sufficient resources to regulate the rates, then we can request FCC to stand in, but there's a burden on us to show that we can't use the resources from the franchise fees to do so. I think that would be a difficult burden for us to overcome. In the event that we decide that we no longer want to do this, I haven't found yet a procedure for de-certifying us, but if we would do that and the FCC did not take it over, then the rates for basic service tier would be unregulated. The rates for cable programming service would still be regulated by the FCC but they only do that on a complaint by complaint basis.

Councilwoman Sitnick said to make sure that we look at whether or not they are basing our franchise fee on the basic rates or other, whether or not we can collect monies retroactively if there is a question that arises and what the benefits or negatives to the City are if we own the system.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-45, extending the time period for review of the rates by scheduling a public hearing on this matter on April 4, 1995. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 230

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 21, 1995

B. RESOLUTION NO. 95-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR A TRAFFIC ENFORCEMENT UNIT GRANT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM

Summary: The Police Department is seeking third and final year federal support for its Selective Traffic Enforcement Program. The grant application seeks $106,801 in federal funds and requires $121,201 local match.

RESOLUTION BOOK NO. 22 - PAGE 232

C. RESOLUTION NO. 95-47 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE SCHOOL BOARD

Summary: The terms of David Hillier and Erby Oglesby expire on April 1, 1995. This resolution will appoint Roy Harris and Brian Weinkle to serve four year terms respectively, terms to expire April 1, 1999, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 233

D. RESOLUTION NO. 95-48 - RESOLUTION APPOINTING MEMBERS TO THE STEERING COMMITTEE ON THE REEVALUATION PROCESS FOR THE HEAD OF MONTFORD REDEVELOPMENT PLAN

Summary: By Resolution No. 95-15, City Council established the Steering Committee on the reevaluation process for the Head of Montford Redevelopment Plan. This resolution will appoint Elizabeth Graham and Jane Gianvito Mathews (Planning & Zoning Commission members); Ray Spells (A-B Historic Resources Commission member); and the following citizen members: E. Benson Slosman, Frank Smith (or Bill Eubanks if Frank Smith cannot serve), Eugene Ellison, Michael McDonough, Jane Knox, Mary Jo Brezny, Dora Dawkins, Myra Fuller, Nora Valentine and Shirley Dozier.

RESOLUTION BOOK NO. 22 - PAGE 234

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. ASSISTANT CITY MANAGER

City Manager Westbrook said that he has talked with each member of Council about the need to go ahead and recruit for an assistant city manager. He would like to begin the process so that we can recruit and hire after the first of the fiscal year, July 1.

Councilwomen Sitnick and Field asked that when the process opens the would certainly hope that equal consideration be given to women and minorities.

Councilman Swicegood asked that consideration be given to any capable people that are local, being in City government, or whatever.

City Manager Westbrook said that it was his intent to hire the best person.

It was the consensus of Council for the City Manager to proceed with the recruitment process of Assistant City Manager.

B. U.S. CELLULAR - LANDLORD'S WAIVER AND CONSENT

At the request of City Attorney Slawter, Councilwoman Field authorized the City Manager to sign with U.S. Cellular a landlord's waiver and consent. This motion was seconded by Councilman McClure and carried unanimously.

C. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of March 2-9, 1995: Morris Buckner (Water), Betty L. Gehre (Civic Center), Gary Kramer (Civic Center), Rose Arrington (Streets) and Randall Stimson (Water).

He also said the following claims were received during the week of March 9-15, 1995: Mark Williams (Inspections), Tamela Bradley (Traffic Engineering), Debra L. Hensley (Streets), Barry G. Meade (Inspections), Druid Drive (Public Works) and Catherine Moss (Police).

He said that these claims would be referred to the appropriate insurers for investigation.

D. LAWSUIT

City Attorney Slawter said the following lawsuit was received by the City on March 7, 1995, in which the parties are Lamont Baird v. City

of Asheville, et al., and the nature of the suit is false arrest/false imprisonment.

He said that this lawsuit has been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:49 p.m.

Magdalen Bushnell
CITY CLERK

MAYOR

Tuesday - March 28, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (came in at 2:10 p.m.), Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood (came in at 2:35 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital regarding knee problem)

REQUEST FROM WEST ASHEVILLE RESOURCE CENTER

Mr. Tommy Sellers, President of the West Asheville Business Association, explained that the West Asheville Resource Center is requesting a $5,000 financial contribution from the City of Asheville. The money will be used to install a gas furnace and central air conditioning.

Councilwoman Field moved to proceed with appropriate action at the next formal meeting to contribute up to $5,000 to the West Asheville Resource Center. This motion was seconded by Councilwoman Sitnick and carried unanimously.

FESTIVALS

Mr. Irby Brison, Interim Parks and Recreation Director, explained that the City is involved with over 20 festivals and special events annually to which the City provides technical and logistical support in a variety of ways. In an effort to better define and to establish continuity in providing these services, staff has developed a recommended Festival and Special Event Policy.

Mr. Brinson then briefed the Council on the policy. In addition to this policy, he prepared a history of festivals and special events that were conducted in 1994. Each festival and special event contained a brief description which included the role City staff has provided, volunteer involvement, and economic impact where feasible.

Upon inquiry of Councilman McClure, Mr. Brinson stated that the annual total for all festivals is approximately $100,000, however, the economic impact runs around $15-30 Million of which $9-11 Million comes from Bele Chere alone.

Councilwoman Sitnick felt that the alcohol provision in the policy was not strict enough considering the fact that security and insurance are someone else's responsibility but it is also the City's image that we must consider. She wanted stricter guidelines placed on the use of alcohol, especially during the Bele Chere Festival.

Ms. Beth Atkins, Chairman of the 1995 Bele Chere Committee, said that the Committee was also concerned about the use of alcohol at festivals and they have hired a consultant to do an alcohol assessment for the Bele Chere Festival which will show areas were we can improve.

Mr. Brinson stated that once the report has been submitted by the consultant, we can incorporate their recommendations for all City festivals.

Vice-Mayor Peterson and Councilwoman Field stated that they both have noticed a decrease in problems regarding Bele Chere within the past couple of years.

Vice-Mayor Peterson asked the City Attorney if he would have a conflict of interest since he was very involved with the Greek Festival and the St. Patrick's Day Festival. City Attorney replied he saw no conflict on him voting on a policy.

Vice-Mayor Peterson said that in the last two years he has seen dramatic changes in the Bele Chere Festival and he now feels more comfortable regarding the Festival from a financial standpoint.

Mr. Brinson answered questions from Councilman Swicegood as they related to grant funds for festivals.

Councilwoman Sitnick moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

NORTH LOUISIANA AVENUE SEWER PROJECT

Mr. Mike Holcombe, Water Resources Director, explained that this area was annexed into the City in 1960 and since that time there has been no sewer service extended to these properties. In March 1994 this area was rezoned from R-3 Residential to OI Office Institutional and without sewer service it is unlikely that this intended use will be realized.

The property owners applied and were turned down from Metropolitan Sewerage District in January to extend a collector sewer to this area. Several of the septic systems serving these taxpayers are or will be at capacity.

The cost estimate for the City is approximately $100,000 to install this sewer. Several of the property owners have indicated plans for expansion and additional economic development pending the installation of this main. Property owners will donate easements to the City which will be their form of financial participation. This could offset the City's cost approximately $25-30,000. This project would demonstrate a "public-private" partnership for infrastructure projects.

In response to a question by Councilman Swicegood, City Attorney Slawter said the annexation laws are not the same as they were back in 1960.

Upon inquiry of Vice-Mayor Peterson, Mr. Holcombe said that the sewer line could be in place in approximately 12 months if Council approval is given.

Councilwoman Field moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilman Swicegood and carried unanimously.

FLOODPLAIN ORDINANCE AMENDMENT

Ms. Julia Cogburn, Planning Director, briefed Council on N.C. Department of Transportation's design relocation of NC 81 at Haw Creek and the problems that exist in the City's current floodplain ordinance.

She suggested setting a public hearing on a proposed floodplain ordinance amendment. The amendment will be that new construction or

substantial improvement of non-structural public improvements (such as streets, water and sewer systems, etc.) be allowed provided that they not result in an increase of more than one foot in the regulatory flood elevation.

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

LANDMARK SIGN DESIGNATION

Ms. Maggie O'Connor, Historic Resources Commission Director, summarized by saying that the owners at 29 Montford Avenue have requested landmark designation for their Hunter Banks sign.

Councilwoman Sitnick moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

$3 MILLION GENERAL OBLIGATION BONDS

Mr. Larry Fisher, Finance Director, briefed the Council on the schedule of events for the issuance of $3,000,000 General Obligation Bonds and requested Council's authorization to proceed with the activities necessary to sell the bonds.

Mr. Fisher requested Council authorize the engagement of Donald P. Ubell (in the amount of $7,500 plus expenses) as bond counsel for this transaction.

Mr. Fisher answered various questions from Councilman McClure as they related to the debt service and if there were any local bond attorneys.

Upon inquiry of Councilman McClure, Mr. Mike Holcombe, Director of Water Resources, said that the sale of these bonds would not have any impact on water rates.

Vice-Mayor Peterson moved to engage the services of Donald P. Ubell as bond counsel for this transaction and authorized the Finance Director to proceed with activities necessary to sell the bonds. This motion was seconded by Councilman McClure and carried unanimously.

$21 MILLION WATER REVENUE BONDS

Mr. Larry Fisher, Finance Director, said that at the Council's retreat in January, Council approved the issuance of Water Revenue Bonds to construct new water intake facilities on the Mills River. He then briefed the Council on the schedule of events for the issuance of $21,000,000 Water Revenue Bonds and requested Council's authorization to proceed with the activities necessary to sell the bonds.

He requested Council authorize the engagement of Donald P. Ubell (in an amount not to exceed $25,000 plus expenses) as bond counsel for this transaction.

Mr. Mike Holcombe, Director of Water Resources, responded to various questions raised by Council regarding negotiations with the City of Hendersonville and what those negotiations would mean with regard to the sale of the $21 Million in water revenue bonds.

Vice-Mayor Peterson moved to engage the services of Donald P. Ubell as bond counsel for this transaction and authorized the Finance Director to proceed with activities necessary to sell the bonds. This motion was seconded by Councilman Swicegood and carried unanimously.

PUBLIC INFORMATION PLAN

Ms. Robin Westbrook, Water Efficiency Coordinator, said that a public information/education plan was developed as a result of a request made by City Council at the annual City Council retreat. This plan significantly reduces the amount that has been allocated to public information in the past. For a total of $43,695 the City will provide information to the public through newspaper ads, three newspaper tabloids, bi-monthly water bill inserts, and an ad in the Yellow Pages and Black Pages listing ARNIE codes.

It is a basic plan that relies on a minimum of media coverage disbursed throughout the year. Each month will have a minimum of two areas of exposure with the exception of September, January and May. These months will rely on newspaper as the main information point.

Councilwoman Sitnick presented information about The Gainesville Sun's public record tabloid and asked Ms. Westbrook to contact Mr. Pope who felt that there is a possibility of a public records page in the Citizens-Times. She also asked Ms. Westbrook to contact the General Manager of TCI Cablevision regarding a crawl on Channel 10 and possibly the taping of Council meetings by Asheville High students to be shown on Channel 10.

Discussion surrounded changing the name of ARNIE, changing the phone number to ARNIE, the advertisement of ARNIE, a jingle for ARNIE and possibly changing the name of CityWorks.

Council discussed the $10,974 cost for bi-monthly water bill inserts. It was determined that the cost could be greatly reduced once a new piece of equipment was in place that could stuff 8-1/2 x 11 inserts. This piece of equipment would probably be in operation a year from now.

Councilwoman Field moved to incorporate this plan in the 1995/96 budget up to $44,000 and have staff take a hard look at reducing the cost of water bill inserts. This motion was seconded by Councilwoman Sitnick and carried unanimously.

SUMMER YOUTH PROGRAM

Ms. Roxie Wynn, Assistant Personnel Director, highlighted the City's Summer Youth Programs for 1992, 1993 and 1994. She provided Council with additional information regarding the types of jobs, participation from the public and private sector and Buncombe County's summer program. She then submitted the 1995 proposal for Council's support.

Councilman Swicegood said that beautification of the City was brought up at the retreat and felt this would be a good time to use some summer youth to perhaps pick up trash, and other similar jobs that would beautify the City. He felt the City needed to be benefiting from these jobs and we didn't need to make up work just to employ the youth.

Councilwoman Sitnick asked Ms. Wynn to contact Jim Conschafter at WLOS-TV who might be willing to work with the City on this program.

Ms. Wynn responded to questions from Councilman McClure as they related to the need for counselors.

City Manager Westbrook said that Council could direct staff to look more toward litter pickup and general maintenance type jobs.

In response to Councilman Swicegood about the jobs in the non-profit sector, City Manager Westbrook said that this is a good way to get the youth involved in areas that the City doesn't move in.

Vice-Mayor Peterson moved to proceed with the Personnel Department's 1995 Summer Youth Program proposal. This motion was seconded by Councilwoman Field and carried unanimously.

It was the consensus of Council that Vice-Mayor Peterson be the Council liaison to the Summer Youth Program.

Councilman McClure suggested contacting the United Way to see if the City could use their counselors if they participate in this program.

SALE OF DISPOSAL PARCELS & APPROVAL OF ADJACENT OWNER INCENTIVE PLAN

Mr. Marvin Vierra, Community Development Director, explained that the Housing Authority, acting as Redevelopment Commission, is seeking approval to sell property in the East End/Valley Street area to adjacent property owner Laurie Bennett. Disposal Parcels 78 and 80 are not independently buildable due to topography and utility easements.

He then explained a new Plan called the Adjacent Owner Incentive Plan has been designed by the Housing Authority to promote the sale of non-buildable lots to adjacent owners. They believe the Plan is a win/win situation. It provides an affordable means for lower income homeowners to purchase adjacent non-buildable lots to combine with the property they own and place the property back on the tax rolls and away from public responsibility for liability and maintenance.

Council members suggested possible uses for the small vacant lots, such as small play areas and community gardening.

Councilwoman Sitnick moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

CONSENT AGENDA:

Budget Amendment regarding Three Canine Units

Summary: This action, in the amount of $60,255, is to fund acquisition, training and operating costs for three canine units for the Asheville Police Department.

Grant Application for Summer Day Camp Nutritional Service

Summary: The Parks & Recreation Department is seeking authorization for the City Manager to apply for and enter into an agreement with the N.C. Department of Public Instruction for the provision of food services for the participants of the Summer Day Camp and Summer Playground Programs. This grant proposal will be approximately $46,000 of reimbursable funds.

Budget Amendment regarding Annexation Funding

Summary: This action provides funding for personnel and operating costs incurred as a result of annexations effective since June 30, 1994.

Bids on Digital Recording System

Summary: Recommend award be made to low bidder, Lanier Worldwide, Asheville, N.C., for a 48 channel Lanier Model LDL-848 Digital Recording System with no trade-in allowance for a total bid of $46,911.

Budget Amendment regarding Pay Plan Allocation to Departments

Summary: This action transfers funds to the various departmental line items to provide funding for the pay plan costs during 1994/95.

Councilwoman Sitnick moved to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

OTHER ITEMS

Economic Development

Councilwoman Sitnick asked Council to consider placing a time limit on money the Council allocates on economic development projects.

City Manager Westbrook said up until this time, Council has only stated their intent to allocate money, but there has been no appropriation of funds nor is there a budget at this time for economic development projects. A public hearing would need to be held and a budget amendment would need to be adopted before any funding could be committed.

Homeless Grant Application

Councilwoman Sitnick explained the Super NOFA Program (homeless grant) and how the City can apply for the grant. She further explained the matching funds aspect of this grant application and felt Asheville would be looked at favorably for this grant due to the already existing transitional homes. She stated that CDBG funds are not to be used as leverage. The deadline for submission of the grant application is April 7, 1995. She asked Council to consider hiring William B. Farris on a brief consulting basis to prepare the grant application. She has contacted Mr. Farris who has agreed to prepare the grant application for $2,400-$3,000 which includes expenses.

City Manager Westbrook said that the City did not have the in-house capabilities to prepare this application and there is such a short turn-around time period he had no problem with Council contracting with Mr. Farris for up to $3,000. He did state, however, that a budget amendment would have to be prepared for action at the next Council meeting.

Councilman McClure felt that creating jobs is the best way to help the homeless.

It was the consensus of Council that Councilwoman Sitnick be the contact person with Mr. Farris concerning this grant application.

Vice-Mayor Peterson moved to proceed with the appropriate actions at the next Council meeting. This motion was seconded by Councilwoman Field and carried on a 4-2 vote, with Councilmen McClure and Swicegood voting no.

CLOSED SESSION

At 5:00 p.m. Councilwoman Sitnick moved to go into closed session to discuss a legal issue which requires consulting with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:20 p.m. Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT

Mayor Martin adjourned the meeting at 5:20 p.m.

Magdalene Burdette
CITY CLERK

MAYOR

Tuesday - April 4, 1995 - 4:00 p.m.

Regular Meeting

Present: Vice-Mayor Chris Peterson, Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell Martin (out of town) and Councilman Herbert J. Watts (in hospital) - At certain times, Councilman Watts was able to participate in the meeting by use of a speaker phone. At those times, it will be noted.

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-49 - RESOLUTION TO RETIRING EMPLOYEE R.L. CARVER

Vice-Mayor Peterson read the resolution stating that Lee Carver has been an employee for 21 years and has requested retirement from his position as Captain in the Asheville Police Department. He expressed City Council's appreciation to Lee for his service to the City of Asheville and its citizens.

Vice-Mayor Peterson said that he has received Captain Carver's request to purchase his weapon as allowed by State law and would have the City Manager look into the City's policy.

Councilman McClure moved for the adoption of Resolution No. 95-49. This motion was seconded by Councilwoman Sitnick and carried unanimously.

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B. PRESENTATION OF DISTINGUISHED BUDGET PRESENTATION AWARD FROM THE GOVERNMENT FINANCE OFFICERS ASSOCIATION

Vice-Mayor Peterson presented Audit/Budget Director Robert G. Wurst with the Distinguished Budget Presentation Award which is the highest form of recognition in governmental budgeting and represents a significant achievement by the City of Asheville.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 9-15, 1995, AS "BUILDING SAFETY WEEK"

Vice-Mayor Peterson proclaimed the week of April 9-15, 1995, as "Building Safety Week" in the City of Asheville and presented Fire Chief John Rukavina with the proclamation.

On behalf of City Council, Vice-Mayor Peterson thanked Fire Chief Rukavina and the entire Fire Department for the excellent way the recent fire was handled. Fire Chief Rukavina thanked the neighboring fire departments for coming to Asheville's assistance.

Councilwoman Field stated that a benefit will be held to help the victims of the fire.

D. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 10-16, 1995, AS "COMMUNITY DEVELOPMENT WEEK"

Vice-Mayor Peterson proclaimed the week of April 10-16, 1995, as "Community Development Week" in the City of Asheville and presented Mr. Marvin Vierra, Community Development Director, with the proclamation who briefed the Council on the activities taking place during the week.

RESOLUTION AUTHORIZING APPLICATION FOR SUPPORTIVE HOUSING PROGRAM FUNDS

Councilman Watts was able to participate in this portion of the meeting via speaker phone.

Mr. William B. Farris, at the direction given by Council on March 28, 1995, outlined a project plan for Supportive Housing funds. He stated that the time available for preparing such a plan was very limited, however, based on an analysis of the community's homeless population needs, he, and Mr. Scott A. Redinger, is recommending the City of Asheville submit an application for funds to provide housing assistance and support services for women and families who are victims of domestic violence.

Mr. Farris described the provisions of the Supportive Housing Program.

As a result of a review and analysis on gaps in the community's services for the homeless population, they have concluded that the City's priority needs are in the following areas: Transitional housing for women and families who are fleeing domestic violence; day care for children of women who are victims of domestic violence; and case management to improve the coordination of support services and to assist families to move out of transitional housing into permanent housing. Transitional housing is intended to provide an interim home for domestic violence for a period of 12 to 24 months with an average stay of 18 months. During this period of transition, the family is assisted by a case manager and receives assistance in planning for return to permanent housing, counseling, education for special needs, job training, and other services designed to help overcome the effects of violence.

To underscore this needs assessment, Helpmate, Inc., the City's major domestic violence agency, turned away 67 women and 59 children from their shelter facility over the last 6 months due to space limitations. In addition, there is no transitional housing in the community to meet the special needs of women and children who are domestic violence victims. Finally, shelter operators focus almost exclusively on maintenance, crisis management, and emergency financial assistance, with little time available for support services.

Domestic violence families need access to assisted housing. They cannot access the City's assisted housing resources primarily due to the extremely long waiting lists. More than 500 individuals and families are eligible and waiting for public housing; more than 1,000 are waiting for publicly assisted housing.

To meet the needs of domestic violence families, it was recommended that the City apply for Supportive Housing Program grant funds for "transitional housing" and "supportive services." He then outlined how the funds would be used:

Transitional housing. Funds for this source will provide Section 8 rental assistance for 16 domestic violence families over a three year

period. With an average stay of 18 months, the initial grant will serve a total of 32 families. Initially, it will be necessary to locate these families on scattered sites. However, a long range plan to create a single site in an existing development will make it easier to provide support services and to address safety needs of the families.

Support services. These funds will provide an array of services to meet identified needs. Helpmate Inc. is recommended to be the subrecipient and to be the lead agency for delivery of these services. Helpmate appears to have the experience and management experience to be successful.

The Section 8 rental assistance for domestic violence families will be used for scattered sites in existing housing developments. The assistance will result in no additional housing units. It will only provide for financial assistance needed to permit the families to access existing housing.

The project is designed so that tenants will contribute $75 per month to a saving account that will provide approximately $1,350 to be used at the end of the transition period to help the tenant to move to permanent housing.

After investigation, we determined that it may be feasible to assist a local, non-profit corporation to acquire, rehabilitate, and improve the management of the existing 100 apartment units at Mountainside Apartments. It is their understanding that this apartment project is a continuing trouble spot for the Police Department and the neighborhood. If Mountainside could be upgraded significantly, it would solve community problems and it would be a desirable site for the 16 transitional units. Unfortunately there was not time to develop this alternative. Work continues on this project and it may be possible to assign the Section 8 units to this development in the future.

It is recommended that the applicant for the funds be the City of Asheville and that the City administer the grant funds through the Community Development Division. Due to the small amount of the grant, no funds are requested to cover the City's administrative costs.

The program is designed to minimize the requirement for City funding and to provide maximum leverage for the City funds committed to the project. For the three year period, a total of $544,985 is requested from HUD; the City's total contribution is $100,000, or $33,000 per year. Block Grant funds may be used to provide this match. However, use of local funds for the match will result in a stronger application.

Mr. Farris thanked the Council for the opportunity to be involved in this project. He felt that the project meets a very real community need and that it will be competitive.

Councilwoman Sitnick said that the Housing and Community Development chaired by Vice-Mayor Peterson found out about this a couple of weeks ago and immediately set on seeking the possibility of getting these funds. I would like to read a couple of things into the record, not that I think that the focus of the application needs substantiation but I would like it in the record so that it reflects the commitment of this Council to help the needy in our community. Up to 50% of all homeless women and children in this country are fleeing domestic violence. There are nearly three times as many animal shelters in the

United States as there are shelters for battered women. In the first year after divorce a woman's standard of living drops 73% while a mans improves by an average of 42%. In 1991 children comprised 50% of the poor in the United States and they are more likely to become poor than any other age group. Children's lives are frequently disrupted by moves to escape that domestic violence. They lose considerable time from schools, they flea home without book money, changes of clothing and they live in the family car when shelters are unavailable, or housing. Many battered women return to relationships because they become homeless and are no longer able to provide for their children and fear losing custody of their children. Due to space limitations for every one woman accepted into a battered woman's shelter, two women and their children are turned away. In some urban areas, five to seven women are turned away for every two women served. The Affordable Housing Coalition in Durham received a grant from HUD in 1993. They focused on transitional housing for homeless families and 50% of the referrals have been from the battered women shelter in Durham. Of the 23 families that have been transitioned into permanent housing, only one household has relapsed into homelessness. So I'd say that's a pretty good statistic for us to strive for. What I would like to do, as the person assigned by the Vice-Mayor to seek out the opportunities for Asheville to apply for this money, I would like to ask why you have decided to apply for $500,000 over three years when there was the availability of $500,000 a year for three years. Was it the short time? Was it the specific focus? Did you feel like the grant application would be more competitive?

Mr. Farris said that he observed the application last year was much larger and much more complex than this one and included, as a result, a lot more money. It was not approved. I think that one of the reasons is that it may be in attempting to address all these valid needs, it lacked some focus. We have attempted to provide focus in this so that whoever reviews this application can clearly know what the City of Asheville is asking for and what it's going to do with the money. And that it's clear that there is some management mechanism in place there to make sure that this gets done. The second thing is that our review of the needs shows that domestic violence is a population that is a priority in that gap. There are other priorities there but this is one that we feel we can put something together and that you can get it funded.

Councilwoman Sitnick asked Mr. Farris if they compared the needs of victims of domestic violence with families with children who don't have access to the system? Mr. Farris responded that they didn't go through any exhaustive comparative analysis. We did have those statistics and the qualitative things from the providers and from the actual participants in these programs. We had initially some concern in two additional areas - one was the people who may have substance abuse and persistent mental illness problems and there are resources in the community now that we know about that are attempting to address a portion of that need. The other thing was that we felt that there could some additional emergency shelter assistance. But, that's not an eligible activity under this grant program and it would have to be addressed in some other way.

Councilwoman Sitnick said that this seems to be the trend nationally. There's a lot of talk now about getting away from welfare as a hand-out and as a life-style, but rather as a welfare with built in responsibility. And it would seem that the money available in this particular program strives to create getting people off the welfare rolls and putting them on the tax rolls - giving them opportunity for

job training for assistance in learning how to have those daily responsibilities. One needs either dignified rental or home ownership. Of course home ownership is my number one priority. I don't think anybody could be more economically assisted or gain self-esteem than to having their own homes. So I appreciate your doing this on such short notice and I certainly hope we are in the running.

Councilman McClure asked if, in dealing with this, are we correcting the problems that we have here or are we asking for an influx of people to come here from other communities? What problem are we going to be resolving? Whose problems are we going to be solving? He wanted to be clear that we are not asking to become part of a circuit in where other communities are going to be sending their families to us. We are dealing with Asheville and Buncombe County and we are solving our problems, not other communities problems, right?

Mr. Farris said that that would be his assessment of it. It was his sincere opinion that with this domestic violence program is addressing Asheville's problems. That may spill over into Buncombe County. The statistics show that Helpmate operates an emergency shelter and he believed the figure is that over the last six months, 67 families have been turned away from there because they are full. Those aren't folks who have come here, those are folks in the community. Mr. Farris said that sometimes these women, and it is virtually all women, may not have their families with them at this point, they may not have custody of their children at that point. But we are talking about those types of folks - not the chronically homeless group.

Councilman McClure wanted to make sure that we are not getting into that particular group of folks. We are talking about people that are, due to circumstances, say domestic violence, that maybe are thrust into an emergency situation. Is that correct?

Mr. Farris responded that yes, it was correct. He asked to talk about the emergency situation. This is all new to him, but emergency means shelter and the transitional housing is a part of that process. It's intake, shelter, transitional housing, permanent housing - in that progression. We are not necessarily talking about folks who are suddenly homeless going directly into this transitional housing. It would be required that they go through an intake process and stabilization in some other environment before they transition into this transitional house.

Councilman McClure asked what the screening process was and how do we know that we are really dealing with the problem that we are trying to resolve. Mr. Farris said the key hurdle that these families must pass in order to go from shelter environment or perhaps even a situation where they have been receiving counseling but they are living with a friend - but they have to be willing to sign a contract, in this case it would be a contract with Helpmate, which commits them to a number of things up to and including the development of a plan for their progression from transitional housing to permanent housing. That plan may include a number of elements.

Councilwoman Field said that when Council voted on this during their March 28, 1995, worksession, they did commit $100,000 of City funds over three years assuming we got the grant, but we didn't designate whether or not it would be from CDBG or from the General Fund.

Councilman McClure felt that this was a different program than what Council discussed last week. Councilwoman Sitnick said that this

is the same program and the only difference is last week, because we hadn't gone through the application program and the evaluation of the community needs part of it, there was no earmarking of the money to go to any segment. What I heard your concern was, was that you didn't want the fact that we were bringing money in here for the homeless to create a situation where a bunch of homeless people now came to Asheville to take advantage of the wonderful services we could provide. It's the same program and it's a program with built in responsibility for the recipients, and it's a problem with built in monitoring requirements for the applicant, which is the City and the subrecipient which would be Helpmate. There would be screening requirements, monitoring requirements, service requirements, etc. The only difference between what you are now hearing and what you heard last week - two differences - I had initially hoped that we would go for the $1.5 million over three years. Mr. Farris feels we have a better chance to get some money if we go for a little less. The second difference is the money that we are going for is from the same program, we're just saying that once the Community Development Division gets the money, it will be earmarked for women who are fleeing domestic violence situations and made homeless by them with their children. This is not a different program. It's not just an open-ended process. Same program, same federal funds. Frankly we haven't discussed whether these would be CDBG monies. I would not like to see that happen. I would like to see that the commitment from this Council to take care of the homeless needs, especially of battered women in our community and people who are fleeing domestic violence, that our commitment is strong enough towards this need that we do give City money for it and let the CDBG money, which is poor people's money, go for the programs that the CD Committee has prioritized for this year. That's up to the Council.

Councilman McClure asked again if we are resolving Asheville's problems or are we resolving other communities problems. According to what he's heard, we will be resolving Asheville and Buncombe County's problems.

Councilman Swicegood felt that this has come a long way from just funding a homeless shelter last week which we talked about and now we're talking about funding a support housing program. Out of the 67 women that were turned away from Helpmate in the last six months, do they take statistics on where these people are from - Asheville, Buncombe County, Madison County, Winston-Salem, etc.?

Mr. Farris said he did not have that information and if it does exist, he did not have time to get that far into it. He guessed that they only take that information if they intake that individual.

Upon inquiry of Councilman Swicegood, Mr. Farris said that the average stay of 18 months comes from the experience of folks who operate the transitional housing. The average family will stay an average of 18 months. Some families stay less and some stay 24 months. I think the limit on this is 24 months.

Councilman Swicegood thought that last week Council discussed the amount of match would be approximately $17,000 over a five year period and now it's $100,000. Councilwoman Sitnick said Council discussed the possibility that the City would have to provide matching funds and also the possibility that the City may not have to provide matching funds in cash but perhaps the City could provide a match to the application, for instance, setting aside a percentage of housing to provide for these folks - or other in-kind donations and we did not come up with a conclusion on a matching number - only that generally the match was

between $50,000-$100,000 for $500,000 per year for three years. Now we're looking at $500,000 for three years instead of $1.5 million and I would assume that the match could possibly be less, but we didn't decide on a match at the last meeting.

Councilwoman Field said her prior motion was up to $100,000 for the program.

Councilman Swicegood asked Mr. Farris what he thought the City's chances are for getting this program. Mr. Farris said that he could not give a valuable answer because he didn't think anybody knows. He said that it meets the requirements that are outlined in the application and there are some unique things that will be done with this that maybe other communities are not doing. It's competitive and so it's tough to know what other communities are doing.

At this point in the meeting, Councilman Watts did not participate.

Councilwoman Sitnick said that she spoke with someone from Manchester, New Hampshire, and they just made application for the Super NOFA program. They have no hospitality house facility, they have no men's and women's transitional houses - they only thing they have over Asheville is that they are an EZ community, which only gives you 1% on the application. Other communities are applying for this. The competition is going to be pretty strong.

City Manager Westbrook explained that the Council is discussing three different topics - one is a budget amendment for $3,000 which would pay for the services of Mr. Farris for preparing the pre-application, the second is a resolution authorizing the City Manager to enter into an agreement with Mr. Farris for the preparation of this application, and the third is a resolution authorizing the Mayor to sign the homeless grant at that point in time.

Councilwoman Field moved for the adoption of a resolution authorizing application for supportive housing program funds. This motion was seconded by Councilwoman Sitnick and failed on a 3-2 vote, with Councilmen McClure and Swicegood voting "no".

City Attorney Slawter explained that the provisions of the Charter require that the majority of all members of Council not excused from the matter are required to carry the matter, therefore, it takes 4 votes for the matter to carry or not.

When Councilwoman Field asked that since the Mayor and Councilman Watts are not excused, do they vote aye? City Attorney Slawter said no, because that's only when they are present at a meeting and then leave. The official vote total is 3-2 and the Charter provision requires the majority of all members of Council - except for those who have been excused, for instance, a conflict of interest.

When Vice-Mayor Peterson instructed the City Clerk to contact Councilman Watts on the phone, City Attorney Slawter said that would be okay. However, if Council were involved in a public hearing and the phone went out, he didn't think Councilman Watts would be able to vote on the matter because he had not been able to participate fully. But on a matter like this, he felt Councilman Watts could appropriately participate.

At this point in the meeting, Councilman Watts participated in the meeting until the meeting adjourned.

City Clerk Burleson read the resolution in full to Councilman Watts, which resolution authorized the Mayor to sign an application to the Department of HUD for $544,985 to provide transitional housing and supportive services to homeless families that are fleeing domestic violence, commits the City Council to $100,000 over the next three years to match the grant funds from HUD, and authorized the City Manager to do all things necessary to implement the program if funding is approved.

Councilman Watts asked if this resolution pertains to wife and child abuse more than homeless. Councilwoman Sitnick responded by saying that it pertains to people who are made homeless because of domestic violence.

In response to Councilman Watts, a representative from Helpmate said that in their emergency shelter they currently have 14 bed spaces available and that can be any make up, depending on the need for cribs and toddler beds and adult beds. Sixty-seven families had been turned away from Helpmate over the last six months because there was no place to put them.

In response to Councilman Swicegood as to the statistics where the families come from, the representative from Helpmate said that beginning on July 1 they started keeping track of that. She didn't have the exact numbers but based on what they have noticed, it's well over 99% - less than 1% that come from other counties or other parts of the State.

Councilman Watts said that Asheville has a very good reputation of good old Asheville and we already have a lot of homeless people. His concern is if we're going to benefit from it and also if the City Manager can find $100,000 for the next three years - if those matters were addressed, he would have no problem with it. However, he felt that he needed more time on this matter and would have to vote "no".

Councilwoman Sitnick said that it seems to be the problem and concern is that if we apply for federal monies for homeless programs, whatever they are, and we receive those monies then the homeless folks are going to be coming here from all over. How they are going to get here, I'm not sure - some folks think they are bused in - I'm sure they don't have cars to get here. Does Beth Maczka have any statistics on how many homeless people are bused into Asheville from other areas because to me that seems to be to be the concern and the confusion here.

Ms. Beth Maczka said that she knew of no issue of people being bused to Asheville. She did know we had a critical homeless problem here that is related to the fact that we have the detox center in Black Mountain and a detox center in Swain County. Asheville's the largest city in Western North Carolina because of the location of these two detox centers. People go through 30 day detox and some people do come to Asheville. A lot of those people have already been residents of Western North Carolina. But certainly with domestic violence we have more domestic violence here and we can obviously handle.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CLOSE A PORTION OF RESERVOIR ROAD

ORDINANCE NO. 2199 - ORDINANCE REDUCING THE SPEED ON RESERVOIR ROAD (FROM THE ENTRANCE TO THE CITY'S RESERVOIR TO SHERWOOD ROAD) AND ON ALL OF BUCHANAN ROAD FROM 35 MILES PER HOUR TO 15 MILES PER HOUR

Vice-Mayor Peterson opened the public hearing at 5:04 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Acting Public Works Director, stated that a petition had been received from Jan Howard and the Kenilworth Residents Association Board requesting that a portion of Reservoir Road be permanently closed.

The petition submitted included 131 signatures; 21 live in the general area of the portion of Reservoir Road being petitioned to be closed, one owns property adjoining the portion to be closed, and four live in the immediate vicinity of the closing. Two properties in the immediate vicinity of the closing have not signed the petition. A representative of St. Joseph's Hospital had signed the petition; however, on March 30, 1995, a letter was received in the City Clerk's Office stating that St. Joseph's Hospital had determined that it would not be in its best interest to remain as a petitioner and formally requesting that the Hospital be removed as a signatory on the petition effective immediately. St. Joseph's Hospital property adjoins the portion of the road requested to be closed.

Reservoir Road serves as a through connecting road from Biltmore Avenue via Granby Street, Buchanan Road, to Windswept Drive and Alexander Drive. This through route may also be accomplished via Forest Hill, Thurland and Sherwood Road.

The portion of Reservoir Road requested to be closed averages 12 feet in width and has an average 24-hour traffic of 347 vehicles. During the peak hours, approximately 50 vehicles utilize the road per hour. The speed limit is 35 with 10 mph advisory signs in the curve portion. A speed study has been performed upon the section of road and the recommended speed limit is 15 mph.

The petitioners petitioning the road closure all own property between the closure and Biltmore entrance, which means their access would not be affected. The owners of property above the area petitioned to be closed have not signed the petition. The closure would limit their access to Alexander Drive and Windswept. Alexander Drive provides adequate access to the Windswept Drive area as well as the Windswept Condominiums and the Wind-in-the-Oaks Condominiums. These property owners would have direct access to the downtown, north, west and east sections of Asheville via Alexander Drive. Their access to the south via Alexander Drive would be very indirect and would require approximately three times the drive distance and time to reach the same point on Biltmore Avenue that could be accessed directly from Reservoir Road. All the traffic utilizing Reservoir Road is residential with the exception of service vehicles and City vehicles accessing the White Fawn Reservoir property. All City vehicles have been asked to utilize Alexander Drive for access to White Fawn to prevent problems from occurring along Reservoir Road.

Trips along Reservoir Road consist of home to school and school to home trips, to work and return trips, shopping and return trips to and

from entertainment. Traffic counts along that section of road were taken three different times. The average number of vehicles in a 24 hour period is 347 cars with 50 of those vehicles being during the a.m. peak hour and another 50 being during the p.m. peak hour.

The Public Works Department recommends denial of the petition to close that portion of Reservoir Road. The reasons for denial are that Reservoir Road is a through street that is necessary to conveniently accomplish certain trips for residents in the area; and the road provides alternate access to a number of properties in case of emergencies, such as fire or other catastrophes. The Public Works staff, however, does recommend that the speed limit along the narrow and curving sections of Reservoir Road and the entire length of Buchanan Road be reduced to 15 miles per hour and that strict enforcement of the speed limit be conducted, especially during peak hours.

Vice-Mayor Peterson stated that City Council has received a petition dated April 4, 1995, containing 112 signatures, which reads as follows: "We, the undersigned residents of Beaucatcher Mountain, respectfully request cancellation of plans to close Reservoir Road which connects Beaucatcher Mountain to Biltmore Avenue. Reservoir Road represents an important access to our residence."

When Councilwoman Sitnick asked when the road was paved, Mr. Ward responded that it was paved in 1986 or 1987 and up until that time it was a gravel road.

When asked by Councilwoman Sitnick if Mr. Ward was familiar with a letter that was written July 25, 1983, by Mr. Waddell, who was Assistant Commander of the Patrol Bureau of the Asheville Police Department, he replied that he was not.

Mr. Ward said there had not been any accidents reported to the Police Department or calls for accidents. There have been some alleged accidents of people hitting mail boxes and pets being run over along the road.

Mr. Ward responded to Councilwoman Sitnick saying that the City's minimum width for a two-lane side road, and basically the recommended width for NC DOT standards, is a 16 foot width, 2 8-foot lanes, which is real tight but it will accommodate two-way traffic. On Reservoir Road, the average width is 16 feet, but we do have portions that are 18 feet and portions that are 10 feet.

Councilwoman Sitnick said that there is a lot of open land in that area and she didn't know who owned the land, but wondered if more development goes in on the mountain would Mr. Ward think that additional cars added to the 347 would cause a problem on that road. He replied that it would.

Councilman McClure asked if there was any way to put a three-way stop sign or speed breakers on that road to assure that the traffic slows down. Mr. Ward said that a speed study was done on the road and the top speed was 32 mph. The 95th percentile speed limit was 28 miles per hour and the majority of vehicles were actually traveling between 10 and 18 mph. Mr. Ward said that if Council chooses to reduce the speed to 15 mph, they propose not only putting up a speed limit reduction sign, but also a warning sign with a flashing light, rumble strips and they would ask the Police Department to keep a closer watch for speeders in that area. They considered looking at speed bumps but with the steepness of that road and the problems we would have in getting snow

off of it that wouldn't be justified. Also, if a car hits the speed breaker it puts the car out of control for a short period of time and in that type terrain it would not be advisable.

Councilwoman Field asked how steep the section is that's proposed to be closed. Mr. Ward said they have not done a percent grade on that, but he guessed it would be about six percent.

Upon inquiry of Councilman Watts, Mr. Ward said the traffic did increase when the two condominiums were constructed.

Upon inquiry of Councilwoman Sitnick about how many fire hydrants there are in the area, Fire Chief John Rukavina said that there are two on Reservoir Road - one at the top and one at Buchanan. He responded to her question relative to water pressure by saying that it is probably characteristic for the area.

Councilwoman Sitnick said that residents in the area are concerned about a fire and if smoke or flames came across Alexander Drive, then Reservoir Road would be the logical other escape, or possibly only escape. "Personally, she said, "if I had to drive a road, good weather, bad weather, day, night, I would take Alexander Drive because it's wider and I would feel more comfortable on it. I also feel that if there was some kind of emergency that made that road impassable that I would want the comfort of knowing there was another road to get down off the mountain. Is Reservoir Road considered an important escape route, not just talking about the convenience of getting to a lower point on Biltmore Avenue, because quite frankly I drove both ways twice and it was about 4 to 4-1/2 minute difference in time. I'm talking about security and safety."

Fire Chief Rukavina responded to Councilwoman Sitnick by saying that, "If a wild land fire were to occur in that area, as many exit routes as possible would be important. Asheville has several areas, and this is one, where the dwellings meet the forest. If there is a fire under those circumstances then we would want to get people out and we would need to gain access to it. We have dual concerns. One is access in dealing with an emergency. The second is, as an agency that responds to automobile accidents, we are concerned about the safety of a roadway. Based on what Mr. Ward said, I would have to say that we would prefer, for emergency response and access purposes, to maintain the roadway, but with the safeguards that Mr. Ward has talked about so that we limit to the greatest extent possible an accident that would cause an injury or would require our presence there. We would prefer that speed bumps not be used."

Councilwoman Sitnick asked if the fire trucks, while going up Alexander Drive, can make all the turns. Fire Chief Rukavina said not all of the fire equipment that we have can make the turns. Reservoir Road would be an alternate access and in the case of a recent fire at Windswept, it was an alternate access for us. We also like to approach from two directions in case something is blocking one direction. Our recommendation is to keep the road open.

Upon inquiry of Councilwoman Sitnick, Fire Chief Rukavina said that an average fire truck is approximately 80-84 inches wide.

A number of persons spoke in favor of closing the portion of Reservoir for several reasons, including, but not limited to: a feeling that the section seeking to be closed was morally and ethically the Howards' driveway up until six or seven years ago when the City paved it; the uncertainty that the portion requested to be closed has even

been dedicated to the public use; the suggestion that since traffic needs a passageway down Biltmore Avenue, to keep Buchanan Road left open for neighbors; Reservoir Road is not safe; Reservoir Road is steep and on top is a super-huge freeway which lures people to speed and then they come into a 10-13 foot curve; people frequently speed; there are numerous roads up and down the hill and this was the one that was improved but it has the worst access; Reservoir Road cannot take any more development of the 200 acres still vacant; a complete evaluation of this road in 1983 by C.C. Waddell, who was with the Police Department at that time, evidences that from the Howard house up to Wind-in-the-Oaks was approximately a 10-foot wide gravel road and he stipulates there were a couple of places you could move over on the shoulder to pass a vehicle; in ten years Reservoir Road went from a 10-foot gravel road to 22 feet of superhighway; clearly in the minutes of 1983 and 1984 Alexander Road was built because Reservoir Road didn't exist at that time and Windswept Drive and the College Road areas were not considered adequate; unless the Hospital has dedicated the right-of-way in the last few days, there was uncertainty if the road has been dedicated; uncertainty if Reservoir Road is a City street; since Kenilworth was platted in 1909 and the roads were platted to accommodate horse-cart traffic, the City took over area as they were platted with no adjacent easements; Reservoir and Buchanan Roads cannot accommodate the types, volumes and the speeds of traffic today; it is a few minutes out of the condominium people's day for their safety and to save one of the more historic neighborhoods in the town to take Alexander Drive and not use Reservoir Road; people who abuse the road are not residents in the area; the neighborhoods should work together to resolve the problems; Buchanan Road is not safe due to speed on road; concern for public safety; suggestion to make Reservoir Road one way up hill with a speed bump; unsafe for pedestrian traffic as well as motorists; concerns if information and data presented is accurate and fair; hedge in road actually slows down the traffic; suggestion of 3-way stop sign; and suggestion for small group of area representatives work together to resolve these concerns. The persons voicing these concerns were as follows:

Jan Kubiniec Howard, 5 Reservoir Road
Bob Brown, resident of Fairview
Ken Myrick, 1 Buchanan Road
Skye Myrick, 1 Buchanan Road
Dr. Steve Davis, President of Kenilworth Neighborhood Association and resident at 6 Chiles Avenue
Peter Loewer, 185 Lakewood Drive
Pat Skalski, resident of Kenilworth (passed out two Street Appendixes dated 6/16/94 and 7/28/94 taken from the Asheville urban Area Transportation Plan)
Mary Alice Sisk, resident whose backdoor faces Buchanan Road
Carl Nyberg, 7 Buckingham Court
Deryl Howard, 5 Reservoir Road
Jim Skalski, 20 Aurora Drive
David Craven, 80 Sherwood Road

A number of persons spoke in support of keeping Reservoir Road open for several reasons, including, but not limited to: Reservoir Road is the only direct access from condominiums to Biltmore and many people bought there largely because of the immediate access to St. Joseph's Hospital and to Mission Hospital; physicians rely on Reservoir Road as access to the hospitals to provide care to the critically ill patients 24 hours a day, rain, sleet and snow; during the winter months Alexander Drive has icy spots that only four-wheel drive vehicles can pass; students, teachers at A-B Tech, business owners and other employees need the access; in times of disaster Reservoir Road was and is one of the

only routes to leave or reach Beaucatcher Mountain; when Alexander Drive was blocked by stranded cars in times of sleet, ice and snow (such as the blizzard) Reservoir Road was the only access that most people had to get off the mountain to get food; when City snow plows can't make it up Alexander Drive, Reservoir Road is the only way down to civilization; in the event of a fire or in the need of 911 services, we need that access; who will pay for the iron gates, road barricades or a turn-around for the dead-end which people are talking about if the road is closed; a dead-end road would mean more drugs because there would not be any flow-through traffic; the police would not be able to apprehend people in that area because of no flow-through traffic; the families in Wind-in-the-Oaks and Windswept View and other residents of Beaucatcher Mountain would be ill-served by the closing of this alternative access; fire and emergency medical access would be undermined if the road is closed; road should be widened to accommodate the traffic as an alternative to closing it; Reservoir Road is not a short cut, it is an access road to people who need to use that road; it is the least curvy, least narrow, least steep road that we can take to get off the mountain top; there is an additional fire hydrant in the area of Wind-in-the-Oaks which would make three fire hydrants in the area; closing Reservoir Road could lead to the area becoming a breeding ground for a lot of crime; hedges in curve should be trimmed back; majority of signatures on the petition were not from people living in the area; and closing the road is not the answer to the safety question but we need to look for other ways to make road safe. The persons voicing these concerns were as follows:

Robert Newton, 405 Windswept Drive - #603 (presented petition from 112 fellow residents of Beaucatcher Mountain)
Letter from Jacob and Eva Biber (read by Robert Newton) - Trustees for a home at 405 Windswept Drive
Sally Ware, 422 Windswept Drive
Helen Hunt, 432 Windswept Drive
Jane Sterns, 522 Windswept Drive
John McCoy, 406 Windswept Drive
Allen Watts, 456 Windswept Drive
C.B. Branson, 56 Arden Road
Karen Stevens, 200 Windswept Drive
Bill Miller, 418 Windswept Drive
James McCormick, 474 Windswept Drive
Mary Helen Huran, resident at the corner of Alexander Drive and Windswept Drive
Paul Gilsdorf, 405 Windswept Drive
Dr. John Kelly, resident at Windswept
Charlie Hensley, 545 Windswept Drive

Councilwoman Sitnick asked what the condition of Reservoir Road is when it's icy and snowy. Mr. Robert Newton responded that "usually in snow and ice all the roads are going to be bad up there - just the nature of the mountain roads - but during the blizzard, once they were able to get out of their security gate which goes out onto Reservoir Road, a four wheel drive vehicle could make it down that road quite easily because it was 21 inches of snow and hard-packed. Also there is a severe problem on Alexander Drive because during bad weather there is a natural spring that spills over right above the apartments onto the road and anytime it drops below 32 degrees you have an 18-20 foot sheet of ice and to avoid that a lot of people use Reservoir Road. When it snows people are trying to get up the mountain and their cars are left stranded along Alexander Drive. The City snow plows cannot get through because there are cars all over and there's not enough room for anything to get by. Reservoir Road does afford you the possibility of being able to get up the back way, an alternative route to that area."

Upon inquiry of Councilwoman Field about a promise made to Kenilworth, Ms. Howard said that this problem was foreseen and she had the agreements in writing.

City Clerk Burleson responded to Ms. Howard's claim by first asking Ms. Howard if what she was saying is that an agreement was reached with a previous City Council that if the Windswept Views and Wind-in-the Oaks condominiums were built Reservoir Road was not to be used because it was too steep, narrow and homes were too close to the street. Mr. Howard said that she was. City Clerk Burleson then responded that after much research it was determined that Ms. Howard's claim was not true. She explained by saying that a previous city council, on September 13, 1983, entered into an agreement with the owners and developers of Windswept View Condominiums and with the Housing Authority regarding access to the condominiums. This agreement involved the dedication, by the Housing Authority and Alexander Investment Partnership, of a 50-foot right-of-way for Alexander Road. As a part of this agreement the city agreed that prior to the beginning of any construction of the Windswept View condominium project, it would "place signs at appropriate locations along Windswept Drive south of College Street to discourage *construction vehicles* from using said portion of Windswept Drive." The developers agreed to "encourage said contractors, subcontractors, material-men and workmen to use the new road from Ardmion Drive to Windswept Drive." Nothing in the agreement had anything to do with use of the road by the general public – it was only construction traffic that was being discouraged from using Windswept Drive and encouraged to use the yet-unnamed Alexander Road.

She said, and nothing in the agreement applies in any way to present-day traffic. The final provision of the agreement said, "After the completion of the 'Windswept View' condominium project and the paving of Windswept Drive and the new road, the City shall remove the signs along Windswept Drive south of College Street which discourage construction traffic from that portion of Windswept Drive."

She said there was an amendment to the agreement, dated several weeks later, which allowed the developers to proceed with grading and other preparations for the pouring of footings without the prior completion of Alexander Road. The amendment was more prohibitive than the original agreement had been regarding the use of Windswept Drive by construction traffic. The amendment said, "At no time shall said construction traffic, including that used in connection with the pouring of the footings, use the existing paved portion of Windswept Drive. Developers agree that the building permit shall cease to be valid and will be terminated upon the use of Windswept Drive for said construction traffic." So, although the amendment went beyond "encouraging" and "discouraging" and totally prohibited the use of Windswept Drive by *construction* traffic, it still had nothing to do with any *other* traffic and it still *had no effect after construction was finished*.

She said this agreement was about Windswept Drive, not Reservoir Road, but there is no other agreement that even comes this close to having anything to do with restricting traffic on Reservoir Road.

In response to a question about hedges in the curve on Reservoir Road, Mr. Ward responded by saying that those hedges are not within the City's right-of-way and that they belong to Ms. Howard.

Councilwoman Sitnick asked if Reservoir Road is a City dedicated road. Mr. Ward responded that it was and has been since at least 1964.

By use of a map, Mr. Ward then responded to Councilwoman Sitnick about Ms. Howard's allegations that when the City paved Reservoir Road, it paved part of her driveway which is now the section she is asking to be closed.

Upon inquiry of Councilman Swicegood, Mr. Ward said the traffic counts they took were taken in September, December and a few weeks ago. The counts taken a few weeks ago were about 250, about 100 less than counts taken in December and September.

Mr. Ward then responded to the information presented by Ms. Skalski. He explained that when the State and the City's transportation office does the planning, they have roads that are connecting dots and they feed all this data from the computer. The computer actually assigns those trips based on the attractions for trips and the generation of trips. Somehow there was a dot at the intersection of Beaucatcher Road and College Street because that was part of the Thoroughfare Plan. There was also a dot at the intersection of Biltmore Avenue and Victoria Road and basically, the computer, by error, connected those two dots and assigned trips between those two dots which ended up being Windswept Drive and Reservoir Road. Councilwoman Field also stated that at the meeting she attended, Ron Fuller, City's Transportation Planner, explained that this was an error and that it would be corrected.

Mr. Jay Fields, 71 Sherwood, urged Council to make a separate study of Buchanan Road addressing its problems.

Vice-Mayor Peterson closed the public hearing at 6:40 p.m.

Councilman Swicegood moved to deny the closing of a portion of Reservoir Road thus leaving Reservoir Road open. This motion was seconded by Councilman Watts.

Councilwoman Sitnick said that this is one of those times it's real hard to be a member of Council. This is one of those times you realize the huge gap between having an opinion and making a decision. She said that she recognized the validity on both sides of this issue. She will make a motion on the ordinance addressing the public safety concerns which both sides have brought up. As long as she lived in Asheville she has traveled Alexander Drive a number of times, but has only traveled on Reservoir Road a limited number of times. Until this came to Council's attention she was not aware of all of the concerns and her own fears for that road. "The only way that I can vote to not close the road," she said, "is for me to have some assurances that there will be some other steps taken regarding the public safety issues that have been brought up today. Primarily the speed, the enforcement and the rumble strips. I would also hope that the whole road safety issue is addressed, i.e., the width of the road, the right-of-way, the passage of vehicles when two meet, the issue about Buchanan, and the fact that people feel unsafe in their own backyards. So I would have to know that all of the neighbors will work together to address the safety issues that affect all of the neighbors. And that Public Works would have the immediate ability to look into the safety concerns that have been articulately raised today. That's what I would have to be assured of."

Councilwoman Field agreed with Councilwoman Sitnick that this is a difficult issue. She would like to see, if not the Transportation Advisory Group, then some group, including representatives of the neighborhoods, work together to try and resolve some of the concerns raised today. She also would like to have some assurances that some of the problems will be resolved.

Councilman McClure asked Mr. Ward to look again at the three-way stop sign.

Councilwoman Sitnick noted that most of the concerns raised that have to do with safety were raised both by those who were in favor of closing and those who were in favor of keeping the road open. Aside from the issues of convenience and time, which are also important, both groups were raising the same safety issues. She hoped there would not be bad feelings in the neighborhood after today.

The motion made by Councilman Swicegood and seconded by Councilman Watts to deny the closing of a portion of Reservoir Road, thus leaving Reservoir Road open, was carried unanimously.

Vice-Mayor Peterson said that members of Council have been previously furnished with a copy of the ordinance reducing the speed limit on Reservoir Road from the entrance to the City's Reservoir to Sherwood Road and the entire length of Buchanan Road from 35 miles per hour to 15 miles per hour and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2199. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2199 passed on its first and final reading.

Councilwoman Sitnick moved that the Public Works Department look into the safety concerns that have been raised today and come back to City Council as soon as possible with their report, recommendations and evaluation - especially pertaining to the section of Reservoir Road that narrows and especially pertaining to Buchanan Road - with the idea of the rumble strips, three-way stop sign and anything else they deem appropriate and meaningful in helping these safety concerns. This motion was seconded by Councilwoman Field and carried unanimously.

ORDINANCE BOOK NO. 15 - PAGE 51

B. PUBLIC HEARING REGARDING THE RATE SCHEDULE OF TCI CABLEVISION OF ASHEVILLE FOR THE BASIC SERVICE TIER AND ALL EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

RESOLUTION NO. 95-50 - RESOLUTION APPROVING REQUESTS OF TCI CABLEVISION OF ASHEVILLE TO APPROVE AN INFLATION ADJUSTMENT TO THE RATE FOR THE BASIC SERVICE TIER AND AN ANNUAL ADJUSTMENT TO THE RATES FOR EQUIPMENT, INSTALLATION AND OTHER SERVICES USED FOR THE BASIC SERVICE TIER

Vice-Mayor Peterson opened the public hearing at 7:07 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Patsy Meldrum, Assistant City Attorney, said that TCI Cablevision of Asheville is seeking approval of its annual adjustment to update equipment and installation charges for the basic service tier and approval of an inflation adjustment to the basic service tier rates. City staff has reviewed regulations of the Federal Communications Commission ("FCC") and has found tat the requests of TCI Cablevision of Asheville are within the rates permitted by the FCC for the basic service tier and equipment, installation and other services used for the basic service tier.

Mr. Dan Martin, General Manager of TCI Cablevision of Asheville, responded to questions by Councilwoman Sitnick relative to Asheville High televising City Council meetings and a crawl on a local channel. He said that he has been talking with a representative from Asheville City Schools concerning the amount of money per broadcast and he will continue to renew those discussions. He said that they do have the ability now to put some information on the crawl and we will need to sit down and decide on what type of information will need to be on it. He said that he is more than willing to sit down and work out some details.

Councilman McClure said that Asheville High School football games run approximately $1,000-$1,200 per broadcast.

Vice-Mayor Peterson closed the public hearing at 7:16 p.m.

Vice-Mayor Peterson said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman McClure moved for the adoption of Resolution No. 95-50. This motion was seconded by Councilman Watts and carried on a 4-2 vote with Vice-Mayor Peterson and Councilwoman Sitnick voting "no".

RESOLUTION BOOK NO. 22 - PAGE 236

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. ORDINANCE NO. 2200 - BUDGET AMENDMENT RELATIVE TO THREE CANINE UNITS

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $60,255, is to fund acquisition, training and operating costs for three new canine units as previously authorized by City Council.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2200. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, Ordinance No. 2200 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 52

B. ORDINANCE NO. 2201 - BUDGET AMENDMENT RELATIVE TO THE WEST ASHEVILLE RESOURCE CENTER

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of up to $5,000, is to provide funding for heating and air conditioning replacement at the West Asheville Resource Center.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2201. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2201 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 54

C. ORDINANCE NO. 2202 - BUDGET AMENDMENT RELATIVE TO PAY PLAN ALLOCATIONS TO DEPARTMENTS

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $292,398, is to transfer funds from nondepartmental to various departments to provide funding for pay plan costs.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2202. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2202 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 56

D. ORDINANCE NO. 2203 - BUDGET AMENDMENT RELATIVE TO ANNEXATION FUNDING

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $599,681, is to provide funding for personnel and operating costs incurred as a result of annexations effective since June 30, 1994.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2203. This motion was seconded by Councilman Watts.

On a roll call vote of 6-0, Ordinance No. 2203 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 62

E. ORDINANCE NO. 2204 - BUDGET AMENDMENT RELATIVE TO THE NORTH LOUISIANA AVENUE SEWER PROJECT

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $102,000, is to establish project funding for the North Louisiana Avenue sewer line. Fund balance is available for this project.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2204. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2204 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 66

F. ORDINANCE NO. 2205 - BUDGET AMENDMENT RELATIVE TO SERVICES ASSOCIATED WITH THE HOMELESS GRANT APPLICATION

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of up to $3,000, is to provide funding for services associated with filing an Aide to Homeless grant application.

Vice-Mayor Peterson said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman McClure moved for the adoption of Ordinance No. 2205. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2205 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 68

V. CONSENT:

As a result of prior discussion and voting relative to the homeless grant application, item F (resolution authorizing the Mayor to sign a homeless grant application) was removed from the agenda.

A. APPROVAL OF THE MINUTES OF THE WORKSESSION AND REGULAR MEETING HELD ON MARCH 21, 1995, AND THE WORKSESSION HELD ON MARCH 28, 1995

B. RESOLUTION NO. 95-51 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY TO ACCEPT A BID TO PURCHASE DISPOSAL PARCELS 78 AND 80 OF THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM AND TO APPROVE THE ADJACENT OWNER INCENTIVE PLAN

Summary: The Housing Authority, acting as Redevelopment Commission, is seeking approval to sell property in the East End/Valley Street area to adjacent property owner Laurie Bennett. Disposal Parcels 78 and 80 are not independently buildable due to topography and utility easements.

Also, a new Plan called the Adjacent Owner Incentive Plan has been designed by the Housing Authority to promote the sale of non-buildable lots to adjacent owners. The Plan is a win/win situation. It provides an affordable means for lower income homeowners to purchase adjacent non-buildable lots to combine with the property they own and place the property back on the tax rolls and away from public responsibility for liability and maintenance.

RESOLUTION BOOK NO. 22 - PAGE 237

C. RESOLUTION NO. 95-52 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPLICATION FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPARTMENT OF PUBLIC INSTRUCTION TO PROVIDE NUTRITIONAL SERVICE TO THE SUMMER DAY CAMP AND SUMMER PLAYGROUND PROGRAM

Summary: The Parks & Recreation Department is seeking authorization for the City Manager to apply for and enter into an agreement with the N.C. Department of Public Instruction for the

provision of food services for the participants of the Summer Day Camp and Summer Playground Programs. This grant proposal will be approximately $46,000 of reimbursable funds.

RESOLUTION BOOK NO. 22 - PAGE 238

D. RESOLUTION NO. 95-53 - RESOLUTION TO AWARD BID FOR DIGITAL RECORDING SYSTEM

Summary: Recommend award be made to low bidder, Lanier Worldwide, Asheville, N.C., for a 48 channel Lanier Model LDL-848 Digital Recording System with no trade-in allowance for a total bid of $46,911. A complete copy of the bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 22 - PAGE 239

E. RESOLUTION NO. 95-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WILLIAM B. FARRIS FOR CONSULTING SERVICES RELATED TO A GRANT FOR FUNDS TO SUPPORT HOMELESS PROGRAMS

Summary: As directed by the City Council, this agreement will provide for retaining the services of Bill Farris for the purpose of making application for funds to support homeless programs through the "Super NOFA" program.

RESOLUTION BOOK NO. 22 - PAGE 241

F. RESOLUTION TO AUTHORIZE SUBMISSION OF A HOMELESS GRANTS APPLICATION

This item was removed from the Consent Agenda.

G. RESOLUTION NO. 95-55 - RESOLUTION ADOPTING A FESTIVAL AND SPECIAL EVENT POLICY FOR THE CITY OF ASHEVILLE

Summary: In an effort to better define and to establish continuity in providing services to over 20 festivals and special events annually, this policy has been developed.

RESOLUTION BOOK NO. 22 - PAGE 242

H. RESOLUTION NO. 95-56 - RESOLUTION DESIGNATING THE HUNTER BANKS SIGN LOCATED AT 29 MONTFORD AVENUE AS A LANDMARK SIGN

Summary: The owners of 29 Montford Avenue are requesting landmark designation for their Hunter Banks sign.

RESOLUTION BOOK NO. 22 - PAGE 243

I. MOTION SETTING A PUBLIC HEARING FOR APRIL 18, 1995, RELATIVE TO AN AMENDMENT TO THE FLOODPLAIN ORDINANCE

Councilman Swicegood moved for the adoption of the consent agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. REQUEST BY DAVID JOHNSON, PRESIDENT OF CURBSIDE MANAGEMENT

Mr. David Johnson, President of Curbside Management, asked that City Council consider making a commitment that would ensure that he

would be able to continue his recycling business as he is currently conducting it for at least more ten more years so that he would be comfortable in making the additional investment that he needs to make in order to keep his business operating.

B. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of March 16-22, 1995: Carl Fender (Parks & Recreation), Carolyn Hembree (Sanitation) and Ruth Ledford (Water).

He also said the following claims were received during the week of March 23-29, 1995: Janet Kauffman (Sanitation), Steve Becker (Water) and Roger Radcliff (Sanitation).

He said that these claims would be referred to the appropriate insurers for investigation.

C. LAWSUIT

City Attorney Slawter said the following lawsuit was received by the City on March 23, 1995, in which the parties are the County of Buncombe v. Clara Haney and City of Asheville, et al., and the nature of the suit is tax foreclosure.

He said that this lawsuit has been referred to the appropriate legal counsel for action.

E. CLOSED SESSION

At 7:40 p.m., Councilwoman Field moved to go into closed session to discuss a legal issue which requires consulting with the City Attorney in order to preserve the attorney-client privilege. This motion was seconded by Councilman Swicegood and carried unanimously.

At 8:00 p.m. Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Swicegood and carried unanimously.

VII. ADJOURNMENT:

Vice-Mayor Peterson adjourned the meeting at 8:00 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

BID SUMMARY
BID REQUEST NO. 438-95

CITY OF ASHEVILLE
PURCHASING DIVISION

BID OPENED: TUESDAY, JANUARY 24, 1995 3:00 P.M.

A DIGITAL RECORDING SYSTEM FOR ASHEVILLE POLICE DEPARTMENT LESS
TRADE-IN ALLOWANCE FOR USED DICTAPHONE MODEL 5202

ITEM NO.	DICTAPHONE CORPORATION STRATFORD, CT	LANIER WORLDWIDE ASHEVILLE, NC	STANCIL CORPORATION SANTA ANA, CA	COMMUNICATIONS SYSTEMS MEMPHIS, TN	TEKTON, INC. GREENSBORO, NC
A. BASE BID New Digital Multi-Channel Recording System with 32 Channels					
MODEL NO.:	Guardian with Reproducer and Workstation	LDL 848	SG32 Recorder	E1000-32D & PMRC	Rapidax Ranger RGR-3232
MANUFACTUER:	Dictaphone	Lanier Worldwide	Stancil	Sel-Tronics, Inc.	Racal Recorders, Inc.
AMOUNT:	$35,332.00	$37,071.00	$42,375.00	$45,435.00	$64,325.00
A.1. ALTERNATE BID NO. 1 New Digital Multi-Channel Recording System with 40 Channels					
MODEL NO.:	Guardian with Reproducer and Workstation	LDL 848	SG40 Recorder	E1000-40D & PMRC	Rapidax Ranger RGR-3240
MANUFACTURER:	Dictaphone	Lanier Worldwide	Stancil	Sel-Tronics, Inc.	Racal Recorders, Inc.
AMOUNT:	$50,047.45	$41,991.00	$45,000.00	$50,400.00	$86,105.00
A.2. ALTERNATE BID NO. 2 New Digital Multi-Channel Recording System with 48 Channels					
MODEL NO.:	Guardian with Reproducer and Workstation	LDL848	SG48 Recorder	E1000-48D & PMRC	Rapidax Ranger RGR-3248
MANUFACTURER:	Dictaphone	Lanier Worldwide	Stancil	Sel-Tronics, Inc.	Racal Recorders, Inc.
AMOUNT:	$51,917.00	$46,911.00	$49,500.00	$54,725.00	$94,175.00
B. TRADE-IN ALLOWANCE FOR USED DICTAPHONE MODEL 5202	$500.00	None	$1,000.00	$2,000 00	$3,000.00
DELIVERY:	60 Days ARO	30 Days	60 Days ARO	30 - 45 Days	90 Days ARO
TERMS:	Net 30 Days	Net 30 Days	Net 30 Days	Net 30 Days	Net 30 Days

The following companies die not respond: R & E Electronics, Inc., Wilmington, NC; and Vidicomp, Houston, TX.

Exhibit "A"

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Tuesday - April 11, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts (in hospital regarding knee problem)

CITY OPERATIONS ADVISORY COMMISSION

Mr. John Miall, Director of Risk Management, said that following the January Council retreat during which he presented a proposal for privatization, staff has met with the remaining membership of the City Operations Advisory Commission which Council established approximately two years ago. We would like to utilize the Commission to review staff work on privatization as well as being able to provide an outside view of the organization when discussing each privatization issue.

Tim Amos, Chairman of the Commission, and the remaining members of that Commission have met with the City twice and are agreeable to serving in that capacity. Since the Committee last formally met, several members have moved away from the area, or for other reasons, are no longer able to serve.

He asked Council to authorize the Commission to work with the City Manager and staff on the privatization efforts as approved by Council at the January Council retreat.

It was the consensus of Council to proceed with authorizing the Commission to work with the City Manager and staff on the privatization efforts as approved by Council at the January Council retreat.

BUDGET AMENDMENT - REIMBURSEMENT TO CITY SCHOOLS FOR GYM REFURBISHING

Mr. Irby Brinson, Interim Director of Parks and Recreation, said that in November of 1994, Interim City Manager Bill Farris agreed to pay for a percentage of the refinishing of the gym floors at Asheville Middle School through verbal agreement with Tim Amos and Wayne Trogdon. The Parks and Recreation Department currently uses the Asheville Middle School gym for the adult volleyball league, which runs for approximately 30 weeks per year. Mr. Farris felt that due to our use of the facility, we had an obligation to help in paying a portion of the cost. The total bill for refinishing the gym was $16,760. This budget amendment would appropriate $12,000 to this project.

It was understood and agreed by the Council that a precedent will not be set if the City agrees to help pay for a portion of this cost.

Councilman Swicegood moved to proceed with appropriate action at the next formal meeting to appropriate $8,000 to help pay for the refinishing of the Asheville Middle School gym. His reasons were that (1) Interim City Manager Farris had agreed to pay a portion; (2) the school system did not follow-up in writing as to the amount the City would agree to pay; and (3) the Parks and Recreation Department does use the gym. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

ADA GRIEVANCE PROCEDURE

Mr. Lyle Willis, ADA Coordinator, explained the purpose and intent of the ADA which is to mainstream individuals with certain covered disabilities into society. While ADA compliance deadlines have expired, the City, in its continued good faith efforts to fully comply with the ADA, has finalized a required written ADA grievance procedure. The basic elements of the written grievance procedure are as follows:

A. City Council is required to establish an ADA Compliance Committee, which shall serve as a quasi-judicial body to hear ADA appeals from the ADA Coordinator.

B. Since the ADA Compliance Committee, as structured, constitutes a public body, the procedure would require the charging of a small administrative fee to cover publication costs for public notice of the Compliance Committee meetings.

C. The final decision maker regarding the City's compliance or non-compliance with the ADA is the City Manager. The Committee, however, serves an advisory role to the City Manager in cases of undue hardship cases decided against the City.

Councilwoman Field moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

E-911 SELECTIVE ROUTING

Police Chief Will Annarino said that the current E-911 agreement for 911 service to the City of Asheville and Buncombe County is between Bell South and Buncombe County. The Buncombe County Office of Emergency Management currently receives, screens and dispatches all City and County E-911 calls.

A recent three month analysis of police, fire and ambulances (EMS) E-911 calls originating within the corporate limits of Asheville revealed:

- 7,136 E-911 calls originating within the corporate limits of Asheville
- 5,402 police and/or fire related
- 1,734 ambulance (EMS) related.

Assuming this three month analysis is representative of a 12 month period, it can be inferred that roughly (28,544) E-911 calls originated within the corporate limits of Asheville for the year 1994; 21,608 relating to Police and Fire, and 6,900 relating to a medical emergency (EMS).

A meeting was held between City staff and the Bell South E-911 Project Coordinator. The purpose of the meeting was to request selective routing for the Asheville Police Department's communication center. According to Bell South, Buncombe County, as the current primary Public Safety Answering Point ("PSAP"), would have to agree to the City's request. Bell South would need a letter from the City Manager of Asheville requesting selective routing for the City of Asheville.

The Asheville Police Department communication center has all the required equipment for selective routing and designation as a PSAP. No additional costs are anticipated. Additional increases in communication call loads have been reviewed with no increase in personnel anticipated or expected.

Mr. Jerry VeHaun, Buncombe Emergency Management Director and the one currently responsible for the County's E-911 system, is opposed to the City's request. He does not want to lose control of direct medical emergency (EMS) dispatch within the City.

The Asheville Police Department requests selective routing as a PSAP for all city originating E-911 calls.

Councilwoman Field moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilman Swicegood and carried unanimously.

INSPECTIONS DIVISION CUSTOMER SERVICE

Fire Chief John Rukavina, along with Chief Code Enforcement Officer Bob Hixson and Chief of Building and Life Safety Robert Griffin, discussed with Council the list, developed by staff of the Building and Life Safety Division of the Asheville Fire Department, of ten types of concerns raised by customers in connection with safety code enforcement activities.

City staff stressed that it is the Building/Life Safety Division's mission statement to provide for the safety of building contractors, owners and occupants by helping them meet the requirements of city and state building and life safety codes.

Some additional complaints were brought up by Council and responded to by staff.

It was the suggestion of Council for the Building Code Advisory Committee meet with the Economic Development Commission to discuss concerns regarding the permitting process.

STORMWATER OVERVIEW BY REGULATORY AGENCIES

City Manager Jim Westbrook said that City Council requested a worksession on stormwater management and state and federal requirements for stormwater management and water quality.

Mr. Bradley Bennett, Stormwater Program Coordinator with the NC Division of Environmental Management, presented a slide program which noted requirements and management techniques to the Council.

REQUEST FOR COMPREHENSIVE FLOOD CONTROL RECONNAISSANCE STUDY

Ms. Julia Cogburn, Planning Director, said several weeks ago City staff was approached by Buncombe County Emergency Management Director Jerry VeHaun who requested that the City join Buncombe County in seeking Congressman Charles Taylor's assistance on a flood control study.

This study, which can be scheduled with more expediency with the assistance of a member of Congress, would engage the Army Corps of Engineers in reviewing Asheville and Buncombe County's flood prone areas in what is called a flood control reconnaissance study. This study is completely paid for by the federal government but it is but the first of

several steps in solving flood control issues. The latter steps do involve significant local funding. A local governing body is not required to proceed with the subsequent steps unless that local entity is willing and able.

She then outlined in detail each of the four steps in the full process: Step 1 - County-wide comprehensive study for flood control problems; Step 2 - Detailed design of repair plan; Step 3 - Actual repair and construction; and Step 4 - On-going maintenance.

Councilman Swicegood remembered a similar study being done several years ago and wondered what had taken place with the results of that study.

In response to Councilwoman Field's question about what benefit it would be to the City if the study was completed and the City didn't do anything else, Ms. Cogburn replied that perhaps the City could do something on a smaller scale once the areas were identified.

Councilman McClure wondered if a community, for instance, Crowfields, could participate in a cost-sharing type arrangement. Mr. Cogburn felt that might be a good possibility.

Councilwoman Sitnick felt this would be an excellent tool to help create a priority list of the City's major flood prone areas.

Councilwoman Sitnick moved to join in the request to Congressman Taylor by authorizing the City Manager to send a letter to Congressman Taylor stating that the City will only participate in Step 1 and that it be made clear that future funding/participation decisions will be made only upon careful review and examination of the study, funding availability, and benefits to the City of Asheville. This motion was seconded by Councilwoman Field and carried unanimously.

UPDATE ON PEDESTRIAN ACCESS COMMUNITY EVALUATION ("PACE") COMMITTEE

Councilwoman Leni Sitnick, Chairman of PACE, updated Council on the work of the committee and the preparations for a public meeting on pedestrian issues scheduled for Thursday, April 27, 1995.

WAIVER OF BUILDING INSPECTION FEES FOR SMALL BUSINESSES FORCED TO RELOCATE BY THE CHESTERFIELD MILL-ASHEVILLE COTTON MILL FIRE

City Manager Westbrook said that small businesses displaced by the Chesterfield Mill-Asheville Cotton Mill fire of April 2, 1995, have been forced to quickly find new buildings out of which to operate. While the City of Asheville cannot support the costs of these relocations, the City Council can, by resolution, waive building permit-related fees incurred by these small businesses. These fees are estimated at less than $1,000.

Councilman McClure moved to proceed with the appropriate action at the next formal meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

CONSENT AGENDA

Budget Amendment regarding Erskine Street Playground

Summary: This action, in the amount of $11,124, is to appropriate additional funds to cover cost of ADA accessibility at the Erskine Street Playground.

Final Plat Approval for Biltmore Commons Subdivision

Summary: Nappier and Gunnells, developers of the 19 lot Biltmore Commons Subdivision located on West Oakview Road, are requesting approval and acceptance of the final plat for the subdivision. The final plat complies with the standards established by the City's Subdivision Regulations.

Authority to Accept Bid to Purchase Disposal Parcel 160 in the East End/Valley Street Community Improvement Project

Summary: The Housing Authority, acting as Redevelopment Commission, is seeking approval to sell property in East End/Valley Street area to Eugene Ellington in the amount of $4,400.

Resolution requesting City Council to call on Members of the General Assembly to dedicate revenues generated by the increase of the Land Transfer Tax to the Park and Recreation Trust Fund and Natural Heritage Trust Fund

Summary: City Council is requested to call on members of the General Assembly to request that revenues generated by the increased Land Transfer Tax be dedicated to the Park and Recreation Trust Fund and the Natural Heritage Trust Fund for use by local and state park systems.

Demolition of 1 Buffalo Street

Summary: A public hearing will be set for May 9, 1995, to consider demolition of 1 Buffalo Street.

Amendment to Housing Authority Lease Agreement at Reid Recreation Center

Summary: The Parks and Recreation Department wishes to amend the lease agreement with the Housing Authority so that agreement concerning the area used for the Youthful H.A.N.D. Program is renewed annually.

Budget Amendment relative to the 1995 Bele Chere Festival

Summary: This budget amendment, in the amount of $353,950, is to appropriate fund for the 1995 Bele Chere Project.

Festivals Coordinator Chip Scott answered various questions as it related to the "rainy day fund." The festival cleared approximately $47,000 last year but after certain salaries and other expenses were deducted, the "rainy day fund" now totals approximately $25,000.

After Mr. Scott noted that some of the rainy day fund was used to fund Discovery Day, Councilman Swicegood said it was his recollection that the Council was not going to participate with the funding of Discovery Day anymore. He then instructed the City Clerk to research the minutes regarding this matter.

Vice-Mayor Peterson moved to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting. This motion was seconded by Councilwoman Sitnick.

OTHER ITEMS

House Bill 717 Regarding Housing Authority of the City of Asheville and the Redevelopment Commission

The Council discussed House Bill 717, a bill to be entitled "An act to provide that the Asheville City Council and Mayor shall select and remove Housing Authority Commissioners, and to provide that the Asheville City Council may not designate a housing authority or itself to act as a redevelopment commission in lieu of creating a redevelopment commission."

Discussion surrounded that the City Council asked that legislation be introduced only as it related to the City Council and Mayor select and remove Housing Authority Commissioners.

It was the consensus of Council to write to our legislative delegation expressing concern over the language in this bill.

Signs on Bus Shelters

Vice-Mayor Peterson said that at the next formal meeting he would move that the Planning Department be directed to draft an amendment to the sign ordinance so as to allow for signs on bus shelters, that the amendment be submitted to the Planning & Zoning Commission for their review and then to the City Council for consideration.

CLOSED SESSION

At 5:20 p.m. Councilwoman Field moved to go into closed session to discuss the purchase of real estate. This motion was seconded by Councilman Swicegood and carried unanimously.

At 6:15 p.m. Councilwoman Field moved to come out of closed session. This motion was seconded by Councilman Swicegood and carried unanimously.

ADJOURNMENT

Mayor Martin adjourned the meeting at 6:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - April 18, 1995 - 4:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; Assistant City Attorney Patsy Meldrum; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Gary McClure - out of town; and Councilman Herbert J. Watts - in hospital regarding knee problems; however, Councilman Watts participated in the meeting by use of a speaker phone.

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-58 - RESOLUTION IN MEMORY OF GEORGE M. TISDALE

Mayor Martin read the resolution in memory of former City Councilman George M. Tisdale and presented it to Mrs. Tisdale and their son Rick Tisdale.

Councilwoman Sitnick moved for the adoption of Resolution No. 95-58. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 246

B. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 23-30, 1995, AS "DAYS OF REMEMBRANCE OF THE HOLOCAUST"

Councilwoman Sitnick read the proclamation proclaiming April 23-30, 1995, as "Days of Remembrance of the Holocaust" in the City of Asheville.

C. PROCLAMATION PROCLAIMING THE WEEK OF APRIL 23-29, 1995, AS "NATIONAL VOLUNTEER WEEK"

Mayor Martin proclaimed the week of April 23-29, 1995, as "National Volunteer Week" in the City of Asheville and presented Ms. Cathie Stout with the proclamation. Ms. Stout briefed the Council on the activities taking place during the week.

D. PROCLAMATION PROCLAIMING MAY 4, 1995, AS "NATIONAL DAY OF PRAYER"

Mayor Martin proclaimed May 4, 1995, as "National Day of Prayer" in the City of Asheville and presented Ms. Carol Collins with the proclamation. Ms. Collins briefed the Council on the activities taking place in connection with this day.

E. RESOLUTION NO. 95-57 - RESOLUTION TO RETIRING EMPLOYEE RAYMOND OWENS

City Manager Westbrook read the resolution stating that Raymond Owens has been an employee for almost 29 years and has requested retirement from his position as Fire Captain in the Asheville Fire

Department. He expressed City Council's appreciation to Raymond for his service to the City of Asheville and its citizens.

Resolution No. 95-57 was adopted by acclamation.

RESOLUTION BOOK NO. 22 - PAGE 245

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE AMENDING THE FLOODPLAIN REGULATIONS ORDINANCE

ORDINANCE NO. 2206 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ALLOW NEW CONSTRUCTION OR SUBSTANTIAL IMPROVEMENT OF CERTAIN NON-STRUCTURAL PUBLIC IMPROVEMENTS IN THE FLOODWAY DISTRICT

Mayor Martin opened the public hearing at 4:20 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, briefed Council on N.C. Department of Transportation's design relocation of NC 81 at Haw Creek and the problems that exist in the City's current floodplain ordinance. The current floodplain ordinance does not allow any increase to the flood elevation level in the floodway district area.

The amendment proposes that new construction or substantial improvement of public improvements (such as streets, highways, sidewalks, bridges, water and sewer systems, etc.), but excluding structures or buildings, be allowed provided that they do not cause an increase of more than one foot in the regulatory flood elevation.

Councilwoman Sitnick questioned if one foot is considered a slight increase. Ms. Cogburn said that according to FEMA it is. Actually, in many cities FEMA allows one foot for private development as well as public. She stressed that FEMA does not recommend this, they only allow it. With regard to public improvements, we have an existing situation at NC 81 where this is perhaps the only alternative to be able to make any improvements.

Mayor Martin noted that in this specific instance, however, they are only talking about an increase of four inches maximum.

Councilwoman Sitnick asked Ms. Cogburn if this amendment would create an issue of liability for the City. Ms. Cogburn replied that she checked with the City's Risk Manager and he indicated that he does not feel that there are any liability concerns regarding the amendment. She said that it was her understanding from this particular situation that the flood elevation level is being raised but not to the extent to which flooding occurs.

Councilwoman Sitnick hoped that this was not one of those issues that might create some controversy and questions in the community. She didn't doubt that the public hearing was adequately advertised, but wondered if this is one of those situations that really deserves more public scrutiny, just to avoid the perception that there is something more going on down the line.

Ms. Cogburn said that this public hearing has been legally advertised and stressed that this amendment is really a very limited revision - it only applies to public improvements and only allows the increase in regulatory flood elevation to be a maximum of one foot.

Mayor Martin closed the public hearing at 4:27 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2206. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 5-1, Ordinance No. 2206 passed on its first and final reading, with Councilwoman Sitnick voting "no".

ORDINANCE BOOK NO. 15 - PAGE 70

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. FINAL PLAT APPROVAL FOR BILTMORE COMMONS SUBDIVISION

Mr. Gerald Green, Senior Planner, said that Nappier and Gunnells, developers of the 19 lot Biltmore Commons Subdivision located on West Oakview Road, are requesting approval and acceptance of the final plat for the subdivision. The final plat complies with the standards established by the City's subdivision regulations.

He said the preliminary plat for the subdivision was approved by the Planning & Zoning Commission on March 2, 1994 with three conditions. All conditions have been met by the developer. The lots range in size from approximately 1/3 acre to approximately one acre. The subdivision is located outside the City limits but within the City's planning jurisdiction. Public water and sewer service is available to the development. Access to the lots will be provided by a new cul-de-sac street, approximately 1,200 feet in length. The new street will be constructed to NC Department of Transportation standards and will be dedicated as a public street.

Councilwoman Field inquired if there were a landscaping plan. Mr. Green said that there is a landscaping plan for the multi-family portion of the development but our current landscaping ordinance does not require any landscaping in subdivisions. He said the landscape architect on the project was sensitive to the number of trees on this site and. in routing their road, they tried to save some of the larger trees. However, there is significant grading and land clearing as part of the development.

In responding to Councilwoman Field about the cul-de-sac, Mr. Green said that there is open space around the area of the cul-de-sac that will be available for pedestrian and possibly bike use. He said that during its review of the project, staff did recommend walking and bike trails within the development, however, the developer and the Planning & Zoning Commission did not accept those recommendations.

Mr. Daniel Breen, resident of the City, expressed concern over no bike paths or pedestrian trails and especially no sidewalks.

Mayor Martin replied that this subdivision is within the City's extraterritorial jurisdiction area and not within the City limits, therefore, we cannot require them to install sidewalks, but can only encourage constructin of sidewalks.

Councilman Swicegood moved to approve the final plat for Biltmore Commons Subdivision. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. RESOLUTION NO. 95-59 - RESOLUTION ADOPTING A GRIEVANCE PROCEDURE REGARDING THE AMERICAN WITH DISABILITIES ACT FOR THE CITY OF ASHEVILLE

Mr. Lyle Willis, the City's coordinator regarding compliance with the Americans with Disabilities Act ("ADA"), explained that the purpose and intent of the ADA is to mainstream individuals with certain covered disabilities into society. While ADA compliance deadlines have expired, the City, in its continued good faith efforts to comply fully with the ADA, has finalized a required written ADA grievance procedure. The basic elements of the written grievance procedure are as follows:

A. City Council is required to establish an ADA Compliance Committee, which shall serve as a quasi-judicial body to hear ADA appeals from the ADA Coordinator.

B. Since the ADA Compliance Committee, as structured, constitutes a public body, the procedure would require the charging of a small administrative fee to cover publication costs for public notice of the Compliance Committee meetings.

C. The final decision-maker regarding the City's compliance or non-compliance with the ADA is the City Manager. The Committee, however, serves an advisory role to the City Manager in certain cases.

In response to Councilwoman Sitnick, Mr. Willis said that there is no mandate for the City of Asheville to have an ADA mediator.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-59. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 247

V. CONSENT AGENDA:

Councilman Swicegood moved to remove from the Consent Agenda the resolution authorizing the City Manager to submit a formal request in writing to Southern Bell requesting selective routing as a primary public safety answering point for all E-911 calls originating in the City so that the matter could be discussed separately. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Resolutions & Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 4, 1995, AND THE WORKSESSION HELD ON APRIL 11, 1995.

B. **RESOLUTION NO. 95-60 - RESOLUTION AUTHORIZING THE HOUSING AUTHORITY TO ACCEPT A BID TO PURCHASE DISPOSAL PARCEL 160 IN THE EAST END/VALLEY STREET COMMUNITY IMPROVEMENT PROGRAM**

Summary: The Housing Authority, acting as Redevelopment Commission, is seeking approval to sell property in East End/Valley Street area to Eugene Ellington in the amount of $4,400.

RESOLUTION BOOK NO. 22 - PAGE 248

C. **RESOLUTION NO. 95-61 - RESOLUTION REQUESTING CITY COUNCIL TO CALL ON MEMBERS OF THE GENERAL ASSEMBLY TO DEDICATE REVENUES GENERATED BY THE INCREASE OF THE LAND TRANSFER TAX TO THE PARK AND RECREATION TRUST FUND AND THE NATURAL HERITAGE TRUST FUND**

Summary: City Council is requested to call on members of the General Assembly to request that revenues generated by the increased Land Transfer Tax be dedicated to the Park and Recreation Trust Fund and the Natural Heritage Trust Fund for use by local and state park systems.

RESOLUTION BOOK NO. 22 - PAGE 249

D. **RESOLUTION NO. 95-62 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO AN AGREEMENT AND CONTRACT OF LEASE BY AND BETWEEN THE HOUSING AUTHORITY AND THE CITY OF ASHEVILLE FOR SPACE AT REID CENTER**

Summary: The Parks and Recreation Department wishes to amend the lease agreement with the Housing Authority so that the portion of the agreement concerning the area used for the Youthful H.A.N.D. Program is renewed annually. The Housing Authority pays 10% of the utility costs.

RESOLUTION BOOK 22 - PAGE 250

E. **RESOLUTION NO. 95-63 - RESOLUTION AUTHORIZING THE WAIVER OF BUILDING INSPECTION FEES FOR SMALL BUSINESSES FORCED TO RELOCATE BY THE CHESTERFIELD MILL-ASHEVILLE COTTON MILL FIRE**

Summary: Small businesses displaced by the Chesterfield Mill-Asheville Cotton Mill fire of April 2, 1995, have been forced to find new buildings quickly for their operations. While the City of Asheville cannot support the costs of these relocations, the City Council can, by resolution, waive building permit-related fees incurred by these small businesses. These fees are estimated at less than $1,000.

RESOLUTION BOOK NO. 22 - PAGE 251

F. **RESOLUTION NO. 95-64 - RESOLUTION CALLING FOR A PUBLIC HEARING ON MAY 9, 1995, RELATIVE TO DEMOLITION OF THE STRUCTURE LOCATED AT 1 BUFFALO STREET, ASHEVILLE, NORTH CAROLINA**

RESOLUTION BOOK NO. 22 - PAGE 252

G. **MOTION SETTING A PUBLIC HEARING ON MAY 9, 1995, TO AMEND THE ZONING ORDINANCE TO ALLOW BANKS AS A PERMITTED USE IN THE COMMERCIAL SERVICE DISTRICT**

H. **MOTION AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO CONGRESSMAN TAYLOR RELATIVE TO A COMPREHENSIVE FLOOD CONTROL RECONNAISSANCE STUDY FOR ASHEVILLE AND BUNCOMBE COUNTY**

Summary: The City Manager is authorized to send a letter to Congressman Taylor stating that the City will only participate in Step 1 and that it be made clear that future funding/participation decisions will be made only upon careful review and examination of the study, funding availability, and benefits to the City of Asheville.

I. **MOTION DIRECTING THE PLANNING DEPARTMENT TO DRAFT AN AMENDMENT TO THE SIGN ORDINANCE TO ALLOW SIGNS ON BUS SHELTERS, THAT THE AMENDMENT BE SUBMITTED TO THE PLANNING & ZONING COMMISSION FOR THEIR REVIEW AND THEN TO THE CITY COUNCIL FOR CONSIDERATION**

Councilman Swicegood moved for the adoption of the Resolution & Motion Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION NO. 95-65 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A FORMAL REQUEST IN WRITING TO SOUTHERN BELL REQUESTING SELECTIVE ROUTING AS A PRIMARY PUBLIC SAFETY ANSWERING POINT ("PSAP") FOR ALL CITY ORIGINATING E-911 CALLS

Summary: The current E-911 agreement for 911 service to the City of Asheville and Buncombe County is between Bell South and Buncombe County. The Buncombe County Office of Emergency Management currently receives, screens and dispatches all City and County E-911 calls.

A recent three month analysis of police, fire and ambulances (EMS) E-911 calls originating within the corporate limits of Asheville revealed:

- 7,136 E-911 calls originating within the corporate limits of Asheville
- 5,402 police and/or fire related
- 1,734 ambulance (EMS) related.

Assuming this three month analysis is representative of a 12 month period, it can be inferred that roughly (28,544) E-911 calls originated within the corporate limits of Asheville for the year 1994; 21,608 relating to Police and Fire, and 6,900 relating to medical emergency services (EMS).

The Asheville Police Department requests selective routing as a PSAP for all City originating E-911 calls.

Councilman Swicegood asked if this would cost the City any more money by taking this over. Chief Annarino responded that the Asheville Police Department communications center has all the required equipment (which has been installed since 1987) for selective routing and designation as a PSAP. No additional costs are anticipated. Additional increases in communication call loads have been reviewed with no increase in personnel expected. The City will be rebated some money from the County on a pro rata basis according to a formula based on the surcharge for phones.

Mr. Jerry VeHaun, Buncombe County Director of the Emergency Management Service, stated that it appeared to him that one of the reasons this request has come about is the problem with delay. The problem which arises when switching the PSAP is that you can't pick and choose which calls are fire, law enforcement or EMS. If it were strictly City fire or police services, that would be one thing, but when you switch, then you take EMS calls. He stated these have been problems

in the past with delays and the Police Department certainly is aware of them. He stated he has made numerous suggestions since 911 has been in place and he has not been able to get anywhere with looking at what the problems are. He gave an example that it takes Buncombe County an average of seven seconds to answer a 911 call and, looking at the same reports on the same days, once the County transferred that call it took the City an average of 18 seconds to answer the phone. He did have a problem with that. He asked the Council, before they take any action, to go back and look at the 911 situation and the way the system is configured and see if we really can do anything to improve it.

He said one year ago he sent a letter to Interim City Manager Bill Farris asking that the part of the operation dealing with fire-related calls be brought over to the County since the County dispatches all of the County fire departments. In September Mr. Farris responded that he would pass it on to the new city manager and Mr. VeHaun said he hasn't heard anything at this point.

He said when 911 was originally set up, a joint City/County Committee looked into the PSAP. The primary criteria that was used was the location of the majority of EMS calls, fire calls and law enforcement calls. He then explained the rationale that was used to put the PSAP with the County. It costs the County approximately $15,400 each month to provide that service.

He said that when 911 was installed they looked at combining all of the dispatching and decided there would not be a cost saving to have everybody together. With some of the delays encountered and some of the meetings that he has attended, he feels like he has run up against a brick wall.

He said the Police Chief told him that one of the reasons he wanted a PSAP was because of the accreditation of the Asheville Police Department. One of the recommendations from the accreditation group is that the law enforcement agency that is accredited receives their 911 calls direct.

Councilman Swicegood felt the proper way to handle this issue would be for the City and the County to consolidate in this area. He felt it would be beneficial for the entire operation to be in one location, regardless of who is running the system. He also found it hard to believe that there would be no cost savings in consolidation.

Mr. VeHaun said that he would be happy to look at the consolidation issue again.

Councilman Swicegood said that if the City becomes the PSAP, we will be able to improve on the delays plus we will have some accountability if a mistake is made.

City Manager Westbrook said that the City has discussed consolidation with the County and the County turned it down. He also

felt very strongly about the accountability to the public. He felt the City has a good communications center, trained employees and this switch will be done at no additional cost to the City.

In response to Vice-Mayor Peterson, Police Chief Annarino said that he spoke to Sheriff Long, Sheriff Medford and Mr. VeHaun and expressed the City's real desire to be involved in a consolidated communications center in the 800 system. He felt it was the most efficient and effective thing we could do for the taxpayers of all of Buncombe County. He noted that there are some bad communication gaps currently used by the various agencies due to the different radio systems currently used. He stressed that he wanted to be held accountable so if a mistake occurs within the City, we have a way to track those mistakes so we can make sure they don't happen again. When you involve two agencies it becomes complicated in trying to reach the bottom of a mistake.

Police Chief Annarino addressed the accreditation requirement. He agreed that it is a requirement for accreditation. However, it is because it is the professional way and accreditation holds you accountable to the taxpayers and that's what we're wanting to do in the 911 system. He siad this will make us more effective and accountable to taxpayers in the City.

Police Chief Annarino said that if the City goes to this system he has invited Mr. VeHaun to be on the Communications Board with him and the Fire Chief. Since the City will be transferring calls to his agency, he flet Mr. VeHaun has the right to have input and to provide critical assessment of the operation. The Board will be meeting together on a monthly basis and, if there are problems transferring calls, it will be able to be addressed quickly.

Councilman Swicegood felt that we should adopt the resolution but continue to work with the County for a consolidated system, regardless of who is running the system.

City Manager Westbrook said that there might be a technology problem with a consolidated system at this time. He felt there is a willingness to consolidate but it is our opinion that the City has a little more advanced communications system than the County does at this time. For an effective consolidated system, all the agencies would need to be on the same communication system. He said it would be very expensive for those other agencies at this time; however, it will be something that we can look at in the future.

Upon inquiry of Councilman Watts if there are many other cities whose systems were consolidated, Police Chief Annarino responded that there have been no surveys taken; however, there are some consolidated systems around.

Mr. VeHaun invited the City Council to come visit the 911 system before any decisions are made.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-65. This motion was seconded by Councilman Watts and carried unanimously.

V. CONSENT AGENDA:

Ordinances:

A. ORDINANCE NO. 2207 - BUDGET AMENDMENT RELATIVE TO ERSKINE STREET PLAYGROUND

Summary: This budget amendment, in the amount of $25,000, appropriates additional funds to cover costs of ADA accessibility at the Erskine Street Playground.

Councilwoman Sitnick congratulated Councilman Watts for his persistence in getting this playground built.

ORDINANCE BOOK NO. 15 - PAGE 72

B. ORDINANCE NO. 2208 - BUDGET AMENDMENT RELATIVE TO REIMBURSING CITY SCHOOLS FOR ASHEVILLE MIDDLE SCHOOL GYM REFURBISHING

Summary: This budget amendment, in the amount of $8,000 is for funds to reimburse the City School System for a percentage of the refinishing of the gym floors at Asheville Middle School. The Parks and Recreation Department currently uses the Asheville Middle School gym for the adult volleyball league, which runs for approximately 30 weeks per year. The total bill for refinishing the gym was $16,760.

ORDINANCE BOOK NO. 15 - PAGE 74

C. ORDINANCE NO. 2209 - BUDGET AMENDMENT RELATIVE TO FUNDING FOR THE 1995 BELE CHERE FESTIVAL

Summary: This budget amendment, in the amount of $353,950, appropriates funds for the 1995 Bele Chere Project.

ORDINANCE BOOK NO. 15 - PAGE 76

Councilman Swicegood moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Urban Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said, in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on April 5, 1995:

HIGHLAND PARK FORESTRY BUILDING

Mr. Green said that the 40,290 square foot office building is proposed to be located near the Broadway entrance to the Highland Park property and is currently under construction.

On March 20, 1995, a notice was sent to 56 property owners making them aware of the April 5, 1995, Planning & Zoning Commission's public hearing. At the public hearing only the petitioner spoke regarding this project and there was no opposition.

The Planning staff recommended approval of the project with no conditions.

The Planning & Zoning Commission reviewed the request and voted unanimously to recommend that City Council approve this group development.

Upon inquiry of Councilwoman Sitnick about how many trees were cut down to grade that property, Mr. Green responded that he did not know how many trees were cut down in order to prepare the site for development. He said they are, however, complying with the City's landscape ordinance with regard to replacement trees in the parking area, street trees and the trees around the project site. He said that they did adjust a portion of the building location to move it into what had been a ballfield to reduce the number of trees which had to be cut.

Councilwoman Sitnick that this project inspired her to look into the possibility of increasing the caliper size of replacement trees in our landscape ordinance. Mr. Green said that this is something that is recommended in the landscaping requirements of the proposed Unified Development Ordinance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

IRA B. JONES SCHOOL EXPANSION - PLAN 1 AND PLAN 2

Mr. Green said that the 21,500 square foot addition is proposed to be located on the north side of the existing building. A 50-space parking lot is proposed as an alternate bid and may or may not be built. The petitioner is requesting approval of two plans; one with the parking lot and one without the parking lot.

On March 20, 1995, notice was sent to 105 property owners making them aware of the public hearing on April 5, 1995, before the Planning & Zoning Commission. At the public hearing two people spoke in opposition to this project. Those persons expressed concerns regarding the number of trees to be cut and the amount of fill material which will be required to prepare the site for construction.

The Planning staff recommended approval of the project with three conditions: (1) a letter of sewer allocation be obtained from the Metropolitan Sewerage District; (2) a conditional use permit be obtained from the Board of Adjustment; and (3) access be provided to the addition and that this access be approved by the Fire Department.

The Planning & Zoning Commission reviewed the request and voted unanimously to recommend that City Council approve this group development subject to the conditions recommended by the Planning Department staff. The Commission approved the proposal with the parking lot and, in a separate motion, they approved the proposal without it.

Councilwoman Sitnick read the following letter into the minutes, which letter was dated March 28, 1995, from the Asheville Tree/Greenway Commission regarding Ira B. Jones Site Plan:

"There will be a meeting at the Ira B. Jones School media center at 6:00 p.m. on Wednesday, March 29, for a presentation of final site and building plans. The plans will reveal a major impact on the wooded portion of that property.

"The woods and the steep slopes of that site have been a controversial subject to the Asheville public in the past. Because of the past history of this property and the public's continuing interest in its fate, potential public outcry might have been tempered if the architect had been required to make a public presentation of the various alternatives considered and the reasoning behind them before developing final construction drawings. While this might not have totally mollified the public, at least they might better understand why certain decisions and trade-offs have to be made during the design process. It would also have forced the architects to be more open minded and flexible.

"As it stands now the public will only see the final plans and those plans require major earth grading and tree removal. At this time, when the public is questioning the "take it or leave it" attitude of some public agencies, the Broadway situation comes to mind.

"Some months ago, the Tree/Greenway Commission requested that the architects share their preliminary site plan sketches. Our thought was that by getting in at the start of the process some options might be explored that would save as many trees as possible while still meeting the requirements of the project. Also, it might head off some future controversy at the same time.

"The architect did not extend this Commission that courtesy. Instead, the project architect gave a verbal presentation saying that no preliminary drawings existed. Further, he said that the requirements of the program dictated how the addition would be built. We were left to assume that no forest saving alternative solutions were ever sketched or considered.

"The Tree/Greenway Commission considers the Jones School property an important part of the rapidly diminishing urban forest. It is an irreplaceable resource that should be used in such a manner that it is preserved for future generations of Asheville children.

"However, our mandate extends only to those trees adjacent to Kimberly Avenue which may fall within the public right-of-way. It appears that a good number of these trees will be removed as part of the parking lot grading.

"One point that we should bring to Council's attention is the notion of sidewalks on the right-of-way. In light of Asheville's recent past, it seems inconceivable that a plan for an elementary school does not include a sidewalk as part of the new construction along Kimberly Avenue. Unfortunately, the public will not blame an insensitive

consulting architect for this oversight. Rather, they will see it as a failure of a City government unwilling to respond to a desperate need.

"We encourage members of Council to attend the above noted presentation."

Councilwoman Sitnick went on further to read a portion of the minutes of the Asheville/Tree Greenway Commission minutes dated March 27, 1995:

"The Tree/Greenway Commission, realizing the Commission's authority is only in the area of trees and greenways, and since we are losing 1% of our urban forests every year, recommends that City Council encourage the School Board to look for an alternative plan so that this natural wooded area will not be disturbed. Orbison also suggested that City Council ask to see alternative plans for this site. Dennis Wilson made a motion that a letter be drafted and sent to City Council conveying the Commission's thoughts and concerns about the Ira B. Jones Site plan and also stressing the fact that architects/developers should make public presentations of site plans and construction plans in the early stages to avoid as much controversy as possible and to allow for alternative recommendations."

Mr. John Cort, architect, responded that architects do respond when they are instructed to do so by their client. In this instance, his client is the Board of Education of the City of Asheville. He said the Tree/Greenway Commission never sent a request to their client that the presentation be made.

Ms. Jane Van Laurel, a resident which lives close to the area, spoke about other alternatives available other than to cut the trees. She strongly objected to the loss of the trees. She hoped Council would support the Tree/Greenway Commission's recommendations.

Councilwoman Sitnick said that even on the plan without the parking lot there will be some disturbance of trees and land in order to create the fill that's necessary to fill in the ravine.

Mr. Daniel Breen felt that sidewalks should be included as part of the plan.

Councilwoman Field said that there are sidewalks on one side, however, it is much too steep on the other side to create a sidewalk without taking down a considerable number of trees which would have a major impact on that particular stand of urban forest. She suggested to City staff that perhaps there would be a possibility of looking into an impervious surface trail, instead of a sidewalk, which would meander through the trees starting down low where you can get onto that site in a way that doesn't require going down a very steep bank and work its way through. She felt that would be an appropriate way to deal with the traffic on Kimberly Avenue by getting the kids away from the street.

Councilwoman Field wanted to point out that architects do not do schools for the money; they actually lose money doing schools. She wondered if the Tree/Greenway Commission, in its recommendation that the architect make presentations of preliminary schematic designs, have a way of paying the architect for that work and time. Architects only have their services to sell - just like lawyers, doctors and accountants. When they are asked to make a presentation, the client needs to pay the architect for that time and that energy and to put on a

presentation in front of an entire group of people is quite significant. She said it's certainly something that the City can require, but the City really needs to be looking into what the impact is on the cost of a project when we ask for additional presentations that are not normally required within the scope of the work that is approved in the documents that are signed between the owner and the architect. The presentations are the responsibility of the owner, not the architect. The architect only does what the owner asks them to do.

Mayor Martin stressed that the sole purpose of this consideration today is to decide whether or not Council will set a public hearing on this matter.

Ms. Jean Troutman pointed out that a replacement nursery tree cannot replace an 80-year old tree. She challenged the architects to come with a creative idea that will not remove one tree.

Mr. Keith Campbell, a resident who lives across the street from Jones School and who is President of the Community Association of North Asheville, stated that the neighborhood is not arguing about the Jones School expansion or the logic of using the adjacent wooded area for that expansion. However, he pointed out his concerns about the plan that includes the parking lot: (1) destruction of one of Asheville's few remaining greenways; (2) water runoff caused by the construction of the parking lot; (3) any surprises that might be encountered after construction has begun, i.e. is there sufficient fill on site for the project; requested additional study of the building site before construction begins; and (4) possible lack of consideration of providing additional parking in a less destructive manner.

When Councilwoman Sitnick recommended that Council set a public hearing, the dates of May 9, May 23 and June 13 were discussed.

Mayor Martin asked Mr. Cort if there were any time constraints on this as far as building is concerned. Mr. Cort responded that they were instructed to complete the drawings by the end of May and issue the project for bids. Mr. Court said the purpose of that is to have the school under construction while the students are on summer vacation.

Councilman Swicegood felt it was appropriate, before City Council holds a public hearing, for folks to go to the School Board and talk to the School Board about their concerns.

Upon inquiry of Councilman Swicegood if the School Board was addressed by the Tree/Greenway Commission on any of these matters, Mr. Cort said not to his knowledge.

Mr. Cort said that his office had two notifications from the Tree/Greenway Commission - one was by telephone when they were requested to appear at a Commission meeting, with just a few days notice. The second was a written one that was received on a Friday for a Monday meeting. Due to the shortness of time between their receipt of the notification and the meeting, they could not attend due to other prior commitments. He said he felt the architects were never properly notified by the Tree/Greenway Commission with any lead time at all to do business in a business-like manner nor do they believe that the Tree/Greenway Commission notified the Board of Education in a business-like manner to make these presentations. He stated that it's very difficult to respond to any group, particularly in this instance, that is not the authority having jurisdiction. He said they accommodated the Commission and spoke in general about the plans. He stated that they had no authority from the Board of Education to attend the meetings.

Councilwoman Sitnick said "not by way of debate, only by way of discussion, I must say to you that while I realize we, as a Council and as a Tree Commission, don't have any authority to tell the School Board what to do with their property, it's also true that the City Council, in its wisdom, established an advisory body known as the Asheville Tree/Greenway Commission to fulfill the role of advising Council on matters that involve trees, greenways, their use, and their misuse. So, if the Tree Commission did not notify you properly I apologize to you for them and I will further investigate the time line of all of that. However, I will say that anybody, and I'm speaking now of the School Board, not of you and not of your architectural firm - but anybody doing development in Asheville knows that there is a Tree/Greenway Commission and know that they act in an advisory capacity to this Council. There perhaps needs to be some kind of firming up in the process that the Tree Commission is brought into all development issues, maybe during the Technical Review Committee process or as close to the start of a development project as possible, so that these kinds of things can be avoided in the future. I would request of the Planning Department that we look into a way to make sure that the Asheville Tree/Greenway Commission, which really is membered by some incredible experts, be utilized to its maximum potential in order to be as advisory as possible to this Council and to work with developers and builders in order to determine, before the project gets to this point, ways and alternatives that can be sensitive to our beautiful city."

Mr. Cort said that they did have a neighborhood meeting in which 105 notices were mailed out in advance and the architects did give the Tree/Greenway Commission written notice that there would be a meeting. He said they invited the Commission to that meeting for the presentation which was made at Jones School.

In consideration of the deadline for bids, Councilwoman Sitnick moved to set a public hearing on May 9, 1995. There being no second, the motion failed.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

Mr. David Goughnour suggested Council refer this manner back to the School Board. The Mayor referred further inquiry to the School Board.

B. HEAD OF MONTFORD STEERING COMMITTEE

Councilwoman Sitnick asked for the following to be verbatim:

Councilwoman Sitnick - This is about the Head of Montford Steering Committee, recognizing that there might have been some confusion, and confident that nothing improper was intended, I must ask the Council to send the Head of Montford Steering Committee report process back to the Committee for consensus and reaffirmation. Since the record clearly indicates, both in the City Clerk's minutes and in the City Council minutes, that during the Steering Committee meeting on April 6 the vote was cast, there was a vote cast by a citizen who is not a member of the Steering Committee.

Mayor Martin - Do you want to explain that?

Sitnick - I can.

Mayor - We don't need names.

Sitnick - This is not about the vote that was taken. This is about the process through which the Committee operated. There was some discussion last week at the end of the Council's meeting closed session that was discussed in open session having to do with the Head of Montford Steering Committee report process. At that time when I brought it up to Council there was discussion that the membership of the committee was established by Council, there had been no formal change in that committee and that as far as Council was concerned, the process was valid and complete. I apologize to my fellow councilmen and woman because at that time during that discussion I completely forgot a very important fact that would have perhaps convinced Council differently. And that was that when Council passed Resolution No. 95-15 establishing the steering committee, it established the steering committee with 13 members. That was adopted on February 7 and that was in our packet. On February 28 I brought to Council, and this is what I forgot last week, I brought to Council the fact that a member of the committee had asked to step aside because of a conflict. I did talk to Council about that in Pre-Council and it was duly noted by the City Clerk. The Council then passed Resolution No. 95-48 on March 21 which appointed the specific members to the steering committee. The invalid voter was not on that list and was an official member because that member had already stepped aside. So, I bring this to Council's attention in order to make right the process and in order to make sure that what we did in establishing Resolutions 95-15 establishing a 13 member steering committee and what we did in adopting Resolution 95-48 appointing 13 specific members to that committee be held in conformance with our legal responsibilities.

Mayor - Let me ask a question of legal counsel here. In view of the facts presented, I believe you are aware of them, would we be out of step if we did, in fact, accept a decision made by a committee where all the voters were not members of the committee that we ourselves appointed. Give us your opinion on that, if you will.

Assistant City Attorney Meldrum - This committee is an ad hoc advisory committee and their recommendations would go into two different directions. It is my understanding that the written report, since it involves a rezoning request that's part of a public hearing that was continued until May 23 that the report, will be presented to Council at that time in written form. In addition the other recommended changes would have to go through numerous steps before it would come back to City Council because they would involve going to the Redevelopment Commission as an amendment to the Redevelopment Plan, the Planning & Zoning Commission both as an amendment to the Redevelopment Plan and as rezonings, and then finally to the City Council for both those processes. Whenever it would get back to the City Council, the City Council could take into consideration the recorded votes of that advisory committee. It's my understanding that the votes of the various individuals who voted were recorded so the Council could know how this person voted that was not a part of the resolution where the members of the committee were appointed. And take that into consideration in determining whether or not to follow the recommendations of the committee or follow whatever subsequent recommendations might be made by either the Redevelopment Commission or the Planning & Zoning Commission.

Mayor - Since we have time though, it wouldn't hurt if we did send it back to committee to reconfirm.

Meldrum - You could also do it that way. Either way would be appropriate. Either to accept the report with the information about the confusion about the votes taken at their April 6 meeting or to send it back and ask that new votes be taken.

Councilman Swicegood - I'd like to ask a question. We keep talking about this person. Who are we talking about that's not a member.

Mayor - Leni, do you want to go into that.

Swicegood - I'm just curious who it is.

Sitnick - I'd be happy to say that, but as I said in my statement - I'm confident that nothing improper was intended here and I don't know that it's necessary to bring that name forward. It might appear to be an accusation and I don't want to do that. I'd be happy to do it if.

Swicegood - If we're going to sit here and talk about sending this back to a committee and talking about board members that are or aren't on the board, then I think we need to get everything on the table up front. Also, I don't think it's fair to Council or to the board members, just because maybe the vote did not go to some people's liking in the Montford area, to send it back. We'll have that option when it comes before us at the end of City Council, when a public hearing, or whatever, is set and make that decision. But this is ridiculous. If we are going to put people on boards and we can't talk about who we did or didn't put on boards, let's move on and get on with business and we'll have the final say-so. But I mean, if we can't sit up here and talk about what's going on, I'm not even willing to discuss it.

Sitnick - I'd be happy to do that Mr. Swicegood. I have no problem. I was merely protecting that person. The person is Albert Sneed. And, quite frankly if you read the packet minutes, the members appointed to the committee do not include the name of Albert Sneed. My concern is many-fold. If we wait for the final report, it's my personal opinion that we will not only be wasting staff time, Planning & Zoning time, City Council time and paper, but we will be wasting the time of the duly appointed citizens who served on that board and voted. And this is not about the vote. This is not about how the vote came down. This is not about who liked it and who didn't. This is merely about process. My second concern, if we don't act properly right now on this, is that every neighborhood committee, every group, every ad hoc, every advisory group that this Council appoints to look at redevelopment plans or any other thing in this community, will be threatened if we don't act properly now because it will mean any citizen who may or not be a member of that board and that committee, can go forth to the meeting and make motions and vote and create another invalid process. I think we will be setting a dangerous precedent if we do not act properly now.

Mayor - I don't quite agree with you there. I think you're making some over statements here. I'm sorry about that, but it is in fact our decision to accept the committee report or not. It's not a requirement, as our attorney said, to send it back, but it would be a good idea to recognize the fact that someone did make some remarks who was not a member of the committee who held himself or herself out to be part of that committee.

Sitnick - It's not the remarks, he is welcome to make remarks. I welcome - I appointed him to this committee. I appointed him to this committee - this is not about remarks. This is about votes and if you would like me to read the time line.

Vice-Mayor Peterson - That's where I'm confused. I don't remember taking anybody off of any committee and I would like to see who we actually put on there. And I don't remember taking anybody off.

Sitnick - Here. He took himself off.

Peterson - I don't think we need to sit here for two hours discussing this. I would like to look at this in a package or something and get all the information. I don't want to sit here and make accusations. I don't remember taking Albert Sneed off.

Sitnick - Ms. Burleson, do you have the - he requested.

Mayor - I would refer not taking action on this today but assemble the information for everyone's perusal and then we can proceed at a reasonable time. We're not hearing this until May 23 and even at that, it's a presentation of the report.

Sitnick - It's a presentation of a report that was established invalidity.

Swicegood - Also I'd like to make a comment that staff made about this same person. When we appoint board members, I feel like it's inappropriate for our staff to come back and make comments about the board people that we put on. I guess, we had a 13 board member that wasn't just a one board member. My question is where were all these other people when the votes were coming down if everything was so wrong. And it comes back that Leni says staff made comments about this person too. So, I guess my concerns are more than just this and just because, and I feel like it is the reason the vote, the vote didn't go the way some of the people in the neighborhood wanted it to, so I mean - I'm like Chris. If there is some action, we've heard what the attorney said, that we'll have the final say-so. I think this is ridiculous.

Sitnick - Mr. Mayor I have - we appointed 13 people to the board.

Mayor - Ms. Sitnick, just a moment. Mr. Westbrook, can we assemble the information needed for all of Council to talk about next week at our worksession please.

City Manager Westbrook - Yes sir. Is that the budget worksession or the one after that?

Mayor - It would be the one after that.

Westbrook - Right before the next Council meeting. Yes sir.

Mayor - Ms. Sitnick, you had something else?

Sitnick - Well I have a lot to say, Mr. Mayor but I'll hold it. Clearly it's falling on deaf ears.

Mayor - I don't think it's falling on deaf ears. I do think that we have a process as well that needs to be adhered to.

Sitnick - Our process has been violated.

Councilwoman Field - Leni, it's not falling on deaf ears. I've been to at least to two of the four Head of Montford meetings and I think that I agree with you but what we need to do is to get more consensus from the community and in order to that we need to send it back and get them to look at the issues a little bit longer. That might be very helpful to us.

Sitnick - Thank you.

Field - It is a very strong neighborhood. A lot of people with a lot of

good ideas and they were - when I went to meetings two and three, I believe, and at the end of meeting three, I thought they had come to consensus with everybody including, both sides shaking their heads and looking like they were getting close. And then the next meeting, which was meeting four, everything seemed to fall apart again. I think it is possible for this community to come together and I'd sure like to see it happen.

Sitnick - One of the interesting indicators here is that when Albert stepped off the committee he never attended another meeting. Because he knew he was off the committee. He asked me. He asked me to take him off the committee. I went to staff, I told them of the request, I brought it up to Council in a Pre-Council session, it is clearly in the City Clerk's records. And we voted on the resolution appointing the membership.

Mayor - These are the kinds of things that we need to talk about.

Sitnick - And his name was not on the committee and he didn't attend any of the meetings until the very last one. And at the April 11 meeting where the report was submitted to the general community, not the steering committee, but the Montford community, he said that he stepped back in onto the committee because we didn't appoint a replacement. We didn't need to appoint a replacement because this Council established a committee of 13 and there were 13, without him.

Mayor - Okay. Mr. Westbrook would you assemble that information and Ms. Sitnick would you assist Mr. Westbrook giving us the information as you know it as well.

C. ASHEVILLE TRANSIT AUTHORITY BUDGET

A lady who rides City buses said that a lot of people depend on the bus system and felt the City should put more money into the system. She felt the riders would be willing to pay more if they had a reliable bus system.

As a result of a question about when the new buses are due, City Manager Westbrook said that the buses are on order and should arrive sometime this fall or early January. He explained that the manufacturer had some delays.

City Manager Westbrook told the audience that the City Council has not taken any action yet on the Transit Authority budget and there is ample time for public comment.

Vice-Mayor Peterson invited the public to the Transit Authority meetings which are held on the second Wednesday of every month at 4:00 p.m. in the Transit Authority offices.

Mr. John McBride read a prepared statement in support of increasing and improving the bus system.

Ms. Jean Troutman spoke in support of the bus system and hoped Council would allocate more funds to the system.

An unidentified lady stated that for many people buses are their only transportation. She suggested buses run on Sundays to allow people to attend church.

Mr. John Redmond said he hoped Council would increase funds for the buses. He also stated concerns regarding health care and housing. Councilwoman Field explained to Mr. Redmond the proper agencies he should seek to alleviate his concerns.

D. GREG ARMENTO LAWSUIT

When Mr. Greg Armento asked if the City was insured against torts, Assistant City Attorney Meldrum advised City Council not to comment on the pending litigation between Mr. Armento and the City of Asheville. She said that the City of Asheville is represented by attorneys in this matter and all inquiries about this matter should be directed to those attorneys. She said that Mr. Armento is familiar with how to contact them.

Mr. Armento then handed to Council a document entitled "Plaintiff's Motion to Compel, Motion for Sanctions, Motion to Stay Calendar, and Memorandum, Affidavit of Plaintiff, Exhibits, in Support".

At 6:07 p.m., Vice-Mayor Peterson moved to excuse Mayor Martin from the meeting. This motion was seconded by Councilwoman Field and carried unanimously.

E. HOMELESS GRANT FUNDS

Mr. Daniel Breen thanked Vice-Mayor Peterson and Councilwomen Field and Sitnick for their support on the homeless grant application, even though the City did not apply for it, but should have.

F. RALPH BISHOP

Mr. Ralph Bishop, resident of the City of Asheville, spoke to Council about the problems he has had when trying to get a certified copy of the public records for the Council meeting on March 7, 1995.

Vice-Mayor Peterson said that he would be happy to furnish Mr. Bishop with a certified copy of a tape of the March 7, 1995, meeting.

G. BROADWAY

Mr. Wayne Caldwell presented City Council with a letter dated February 20, 1995, to Ms. Mary Ann Nabor, The Advisory Council on Historic Preservation, which contained 84 signatures. He said they are concerned about the negative impacts the area residents foresee from the proposed Broadway widening project regarding historic resources in Asheville.

Ms. Renee' Lantzius spoke in opposition to the existing proposed Broadway project. She stated that even though we don't have the solutions, alternatives need to be looked at before it is too late.

Ms. Betty Lawrence, attorney for Broadway Improvement Project, urged Council to take another look at the new issue as it relates to historic resources in Asheville. She stated that there is still a good chance to get a better design. She handed to Council four documents: (1) a copy of an opinion dated March 22, 1995, entitled "Time remains to rethink Broadway widening" by Jim Samsel; (2) a copy of a newspaper article from the Winston-Salem Journal dated May 3, 1995, entitled "Judge Temporarily Stops Plan to Widen Old Road"; (3) a "May Day on Broadway" flyer; and (4) a newspaper entitled "Broadway ... The Show's Not Over". She urged Council to once again look at a petition

presented earlier that contains over 1,000 signatures, 800 of which are City residents, and the over 100 letters presented to Council in October of 1993.

Upon inquiry of Councilwoman Sitnick about the legal status, Ms. Lawrence said that the Court issued a stay on February 17, 1995. On May 1, 1995, arguments will be heard and hopefully the judge will continue the stay thus delaying the project another few months while the court case gets to its conclusion.

H. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of March 30 - April 5, 1995: Sumio Seo (Water), Roberta Britt (Water) and Charles Hunter (Parks and Recreation).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Vice-Mayor Peterson adjourned the meeting at 6:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - April 25, 1995 - 2:00 p.m.
Room 623 - City Hall

BUDGET WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts - in hospital regarding knee problems

City Manager Westbrook presented Council with a balanced 1995/96 recommended annual operating budget of $48,224,977 which keeps the tax rate of .57 cents per $100 valuation. He then went through each City department separately explaining the staffing changes and reasons for increases or decreases in the individual budgets. Staff answered various questions of Council and questions which could not be readily answered would be provided to Council as soon as possible.

It was the consensus of Council to increase the hourly billing rate of the City Attorney from $75.00 to $95.00.

Councilwoman Field felt that the new proposed Building Safety Department should remain a division under the Fire Department.

On a vote of 5-1 (with Councilwoman Field voting "no"), Council directed the City Manager to proceed with the recruitment of a Building Safety Department Director, which position is to be effective July 1, 1995.

Councilwoman Field was very concerned about the moving of tree trimming and right-of-way maintenance functions from the Parks & Recreation Department to the Public Works Department. She felt the Parks & Recreation Department contains the expertise necessary when dealing with trees. She suggested Council consider the hiring of a part-time or full-time arborist in the next budget. She also hoped Council consider the recommendations of the Tree/Greenway Commission to license tree trimmers. She urged the departments responsible for mowing, trimming, etc. to be aware, and not to use, the many sprays, etc., that pollute the ground water.

Council felt Buncombe County should help pay for some of the capital improvements necessary in the Civic Center.

Councilwoman Sitnick requested another worksession regarding public information and for the staff to re-consider where we do advertising - perhaps using the Mountain Xpress, the Asheville Advocate and the African American newspapers to reach more readers. Vice-Mayor Peterson said he would like to see the advertising split up between the three papers Councilwoman Sitnick mentioned.

Mayor Martin suggested a ticket surcharge at the Civic Center. City Manager Westbrook said that a worksession will be set up for Council.

Council asked for a report from the City Manager about the possible renovation of the seventh and eighth floors of the City Hall Building.

Councilwoman Sitnick asked the City Manager for a report of items that Buncombe County used to help pay for but don't anymore, for instance, the subsidy at the Civic Center and the Youth Council.

It was the consensus of Council to appoint Councilwoman Field and Councilmen McClure and Swicegood to the committee which will review the outside agency funding.

Mayor Martin adjourned the meeting at 6:40 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - May 2, 1995 - 2:00 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts - in hospital regarding knee problems

BROADWAY AND TRANSPORTATION ADVISORY COMMITTEE UPDATE

Mr. Ron Fuller, Transportation Planner, updated the Council on the Broadway widening project. He reviewed a detailed report was prepared by staff in January 1994 which contained a chronology of the project's history, a summary of the project, copies of letters supporting the project, and a comparison of the NC DOT plan and the Broadway Improvement Plan Project plan. He said that on May 1, a Superior Court Judge extended a stay that temporarily halts construction on the Broadway widening project. He also updated the Council concerning the status of the interchange re-design and issues related to a long-range look at movement of traffic in the downtown area. He answered various questions from Council regarding on-street parking and noted that any improvement at all on Broadway would result in increased traffic.

Councilwoman Sitnick asked if any studies have been done that will prepare us for possible impacts if the DOT plans are followed. Mr. Fuller responded that no studies have been done from a financial standpoint.

Councilwoman Sitnick asked Mr. Fuller to find out if the federal funding is withdrawn from the project, will the State have to pay the federal government back their 20%.

Mr. Fuller then updated the Council regarding the current status of transportation planning in the Asheville urban area. He gave an overview of how computer models, levels of service, and capacity/deficiency maps are used to direct the long-range transportation planning efforts of the area. He briefed them on the capacity/deficiency map explaining the problem areas that have been identified.

HEAD OF MONTFORD STEERING COMMITTEE

City Clerk Burleson briefed the Council on the factual information regarding appointments to and meetings of the Steering Committee for the Head of Montford Redevelopment Plan. In summary:

1. On February 7, 1995, Council adopted Resolution No. 95-15 establishing a 13 member Steering Committee;

2. During Pre-Council on February 21, 1995, it was the consensus to appoint 14 members to the Steering Committee (including Albert Sneed);

3. On February 28, 1995, Councilwoman Sitnick informed the City Clerk that Albert Sneed said that he didn't need to serve on that Steering Committee because he was Shirley Dozier's attorney and Ms. Dozier was also on the Steering Committee;

4. On March 21, 1995, Council adopted Resolution No. 95-48 appointing 13 members to the Committee (excluding Albert Sneed).

Vice-Mayor Peterson and Councilman Swicegood felt that it was the consensus of the entire Council to appoint Albert Sneed to this committee and it should be the entire Council who takes him off.

Mayor Martin stressed that the Committee was created to resolve some differences, but apparently it had not.

Vice-Mayor Peterson hoped that the Committee could sit back down and try to work things out.

Councilwoman Sitnick said that the very reason we sent this back to the neighborhood for review and reevaluation was to be able to create a sense of consensus and cooperation. It seemed to her that the very opposite has occurred and so she offered her personal apologies to Council, to the staff, but most importantly to the citizens who participated, including Albert Sneed, because it seems that the very opposite result has been achieved. She didn't think we need to be wasting any of our time unless we are working toward some kind of goal that has been established clearly by Council. As she recalls, the purpose of sending this back was to smooth the waters, not create more bumps. She also said that "she was very clear last week in the statement she read into the minutes - 'recognizing that there might have been some confusion' and clearly there was, clearly we need a procedure or a policy that defines how notification for appointment occurs, how resignation occurs, I think the clearer our policy, the easier it will be to follow. This is a parliamentary issue. I don't know what the vote was, I didn't know it two weeks, I don't know it today and this has nothing to do with the vote. 'Recognizing that there might have been some confusion and confident that nothing improper was intended, I must ask the Council to send the Head of Montford Steering Committee report process back to the Committee for consensus and reaffirmation.' This was not to pick a fight. Frankly, I appointed Albert Sneed to this Committee because I felt that he had a lot to say, he had a lot of information and history and input and clearly he represents an important voice in our community and I still feel that way. The fact of the matter is that when this Council passed Resolution No. 95-48, Albert's name wasn't on it because he requested of me that he not be on it. I didn't know that there was a procedure to follow so if any negative impact has occurred on Albert, I apologize for that. There has certainly been a negative impact on this Council, which hopefully will motivate us to create a better process. My hope is that the City Council will empower the Mayor to see if there is some kind of compromise that can be reached. There has been things said in letters that I will refrain from referring to because they were letters sent to Council and this is not a public hearing. I understand that there will not be comment but it seems to me that in part my reputation and honesty is has been called into question about whether I did or didn't create confusion, and quite frankly I resent it. I in all good faith told the City Clerk exactly what Mr. Sneed had said to me. I followed through on it and it got muddled in the process."

Mayor Martin asked Mr. Sneed if he wished to be on the Committee. Mr. Sneed replied that he did. He said that his request was that he be replaced, not to be removed.

City Clerk Burleson explained that the resolution which established the Committee called for 13 members. Council appointed 14

members. So, when Mr. Sneed has requested to be removed, it brought the number of members in line with the resolution establishing the Committee - so there was no need for a replacement member.

Councilman McClure asked the City Attorney if there was a conflict of interest for him (because he was excused from participating on the rezoning request of the Doziers in the Montford area), City Attorney Slawter saw no conflict in just the appointment of a member on a Steering Committee.

When Mayor Martin asked for a show of hands to keep Mr. Sneed on the Committee, Councilwomen Field and Sitnick did not raise their hands, thus showing a 4-2 vote.

Councilwoman Sitnick said that if the resolution establishing the Committee was changed to 14 members she would be happy to leave him on the Committee.

Councilwoman Field had a problem with appointing a 14 member Committee which might result in some tie votes. She suggested the Committee be expanded to 15 members or perhaps just make notes of tie votes so when something comes to the Council from that Committee of 14 members that Council is aware of the tie.

Mayor Martin didn't think it made any difference since this is only an advisory committee to the Council. The Committee has no legal standing, only to get neighborhood input.

Councilwoman Field moved to proceed with the appropriate action at the Council's next formal meeting to amend Resolution No. 95-15 to expand the membership on the Steering Committee from 13 members to 14 members. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick "encouraged Council to, in order to avoid this kind of situation in the future, that we develop a policy that spells out our process about appointment, about notification and about resignation of citizens to boards, commissions, advisory or ad hoc committees. Because what has happened here is while the Planning Department did send a notice that Mr. Sneed was appointed to the Committee the next step that changed that was done verbally by an honorable member of Council and an honorable member of the citizenry, but that one step has been null and voided because it was done verbally. And I feel that it is very important to have something on paper and any citizen appointed to any of those boards or commissions or committees needs to know what the process is when they are appointed so they understand that if they are going to resign there is a process that is to be followed. I don't ever want my action to be questioned again. I followed what I felt was the proper thing to do."

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting to amend Resolution No. 95-48 to add the name of Albert Sneed to the Head of Montford Steering Committee. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Field moved to send this back to the Committee to meet once more before the official report is presented to the Council on May 23. This motion was seconded by Councilwoman Sitnick and carried on a 5-1 vote, with Councilman Swicegood voting "no".

Upon inquiry of Councilman Swicegood, several Council members explained how the appointments to the PACE Committee were made.

CITY OWNED PROPERTY SURVEY AND REPORT UPDATE

Ms. Patty Joyce, Senior Planner, said that City Council asked for a report to review the property owned by the City of Asheville and to maximize the use of all proceeds of the sale or reuse of such property. The Planning Department, as directed by the City Manager, achieved the following objectives: (1) prepare a survey of all City owned property, including a listing of all tax lots within the City. Identify the location, size, zoning and current use of each lot and make recommendations for the best use of these properties, including their potential for sale. Format the survey for easy use and updating; (2) propose how funds from the proceeds of the sale of City property can be best utilized; (3) prepare a recommendation on the possibility of selling or leasing the City Development Department and relocating personnel in that function to City Hall or another area of the City; and (4) locate the current unoccupied and uncommitted space in City Hall. She then reviewed the report which identifies all parcels of land owned by the City of Asheville which have potential for sale. It was suggested that the City market and sell those properties through a real estate management firm and use proceeds from the sales to assist in economic development projects for the City. Many options for the lease of 29 Haywood Street (City Development Department) exist and any decision on the sale of the building should be preceded by a professional real estate appraisal of the property.

Ms. Joyce said that by perhaps by mid-summer, after a site visit on all the vacant tax lots, a comprehensive update should be available for the Council.

Councilwoman Sitnick asked that staff investigate the possibility of giving some of the unbuildable tax lots to Magic Community Gardens, ABCCM or Hospitality House for gardening. She suggested donating some of these lots to neighborhoods for green spaces where the neighbors clean them up, or selling them for $1 to non-profit agencies to maybe build on and become part of the tax base. There are a lot of options that we can use these tax lots for to create a source of revenue rather than to cost the City maintenance expenses.

Upon inquiry of Councilwoman Sitnick, Ms. Cogburn said that an assessment will be done similar to this report of the Housing Authority properties.

Councilman Swicegood suggested that instead of waiting for the complete list of available properties, the City should begin working on some specific sales, i.e., the Richmond Hill area (166.9) acres, some of the property at the Asheville Regional Airport and perhaps 29 Haywood Street (the building that houses City Development).

Ms. Joyce said that since the City has been placing a lot of emphasis on economic development, as part of the proposal for disposing of City-owned real estate, staff would also like to propose a potential use for the funds that are derived from the sale. The City Manager has been discussing with the Chamber of Commerce their concern for the lack of product for them to promote for economic development in Asheville. The specific type of product discussed is "Class A" business park office space. This type of space would be office buildings where corporate or division headquarters or locations for companies who have a presence in Western North Carolina might want to locate, while also attracting businesses from out of state who want to locate in this area to serve their customers or suppliers. The completion of I-26 within the next several years will enhance this possibility.

City Manager Westbrook said that he would propose to use the proceeds from the sale of City-owned real estate to work with the Chamber of Commerce and a developer who would provide such a product for Asheville. We see this as a good public-private partnership with the City's portion being the traditional infrastructure needs of such a development. The City Council would have to approve the use of any funds for economic development prior to the commitment.

City Manager Westbrook understood that when Council appropriated $350,000 for the Stephens-Lee Recreation Center, the money was to come from the sale of some Airport property.

Councilwoman Field absolutely did not support the sale of the 29 Haywood Street. She said that the building has their connector to the City's parking deck and she feels it would be ridiculous to sell the building that has our parking deck connector. Also, we have an agreement with the County that they paid $60,000 for that building in order to help us with the connector and we would have to pay the County back. Also, this property's market value is $151,600 and we've paid a total of $615,000 for 6,300 feet of usable space. 2,100 of that is the arcade - which means that anybody who purchases it would have to purchase it over $100 a square foot. She noted that she bought a building in downtown (which is two buildings over from this building) which cost her $14.55 a square foot and she couldn't imagine anyone would pay over $100 a square foot for a downtown building. She felt it would not be appropriate to sell that building.

Councilman Swicegood said that perhaps leasing 29 Haywood Street would be a better alternative than selling it.

Councilman McClure moved to authorize the City Manager to begin working with the Asheville Chamber of Commerce to provide a "Class A" office park within the City of Asheville for economic development using the proceeds of the sale of the excess real estate. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Sitnick said that any action taken on any of these properties needs to be fully evaluated as to whether or not we can use it as an in-kind payment towards our membership in the Buncombe County Economic Development Commission. They said they don't need any money right now and the City doesn't have $400,000 to give to them anyway. But, if we can use the property as well as down the line maybe some product, an office park or whatever, she would like to make sure that we keep our membership in the Economic Development Commission as part of how and what we do with these properties.

City Manager Westbrook explained that the City is not a member of the Economic Development Commission right now and he would like to deal with them on a one-to-one basis. He felt we didn't need to become a member of the Economic Development Commission to be able to work with the Chamber cooperatively. There may be some things that the City can work with the Chamber on a one-to-one basis and there may be some things the Chamber feels like it needs to bring the Economic Development Commission in on, but that should be their call. He noted that the City should not be in the business of building a business development office park. The City should facilitate it and do what we can by law in terms of infrastructure which could be paid back at a later date either through property taxes or economic impact from whatever businesses build there.

Upon inquiry of Councilman Swicegood, Ms. Joyce said that the market values on the inventory was only land values only.

Vice-Mayor Peterson asked staff to come up with a precise figure on the total amount of land market values on all the City-owned property. City Manager Westbrook said that a list and total figure could be compiled of the available land - not the properties that have City buildings on, for instance, the land the City Hall building is located on or the land that the Public Works Facility is on.

It was the consensus of Council to begin working on the sale of the adjacent property at the Airport, the sale of the Richmond Hill property, the lease of 29 Haywood Street, and some properties which staff feels would be suitable housing sites.

Vice-Mayor Peterson suggested the lease proceeds from 29 Haywood Street be used for economic development or dedicated to streets and sidewalks.

Vice-Mayor Peterson moved to have staff compile a list of the properties, comprising of the three mentioned earlier by Council and any other good candidates. Also staff to proceed with a RFP to be developed for a real estate management company to sell property that Council agrees to. The list and RFP will be submitted to Council for final approval. This motion was seconded by Councilman Swicegood and carried on a 5-1 vote, with Councilwoman Field voting no.

City Attorney Slawter said that the City has already received some interest in selling or leasing the Airport parcels and the Council might want to consider accepting a proposal and subjecting it to upset bids under the statutory procedure rather than have to pay a real estate firm to market that property.

At 4:00 p.m., Councilman McClure left the meeting without being formally excused.

SUBMITTAL OF CONSOLIDATED PLAN TO HUD

Mr. Marvin Vierra said that this Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs. The Consolidated Plan will need to be submitted to HUD by May 15, 1995.

The City will be applying for $1,694,000 in CDBG and $1,172,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by $130,000. Matching funds for HOME grant for the City of Asheville will increase revenue for HOME activities by $26,000.

He said the City's Housing and Community Development Committee has reviewed applications from Agencies for CDBG funds and recommends CDBG funding allocation. He then described the recommended funding. The Asheville Regional Housing Consortium has reviewed applications from agencies and local governments for HOME funds and recommended HOME funding allocations. He then described their recommended funding.

He then summarized the changes in the way the CDBG Program will be administered in the future.

Councilman Swicegood questioned the 40% increase for counseling and felt it might be better used for education.

Councilwoman Sitnick was pleased that the City will be tightening up the CDBG administration because that is one of the main reasons the City is taking back the Redevelopment Commission - for accountability.

Councilwoman Sitnick said "two of the requests that came to the committee, one was from the New Hope Community Health Center and one was from the Minnie Jones Health Care Center - it's been brought to the committee's attention that for some reason there is a significant portion of the minority population that does not seek help care at the Health Department. I would like to know if we can evaluate whether or not that is a significant factor. And if it is, given some of the health statistics that are being presented by the AMA and other medical organizations and the fact that most diseases are on the down-swing in this country, except amongst the minority population, there was a recent study that in North Carolina, if you can't buy good health, you're not in good health and the poverty is certainly a factor in the level of health we are able to achieve and maintain. There are a lot of statistics on the growing health numbers in minority populations - tuberculosis and others. So what I'd like to know is - is the Health Department, which is funded by the County, being maximized to its potential and if not, I would like the committee to consider, or I would like to make a personal request to the Community Development Department, to consider finding $25,000 for each of these neighborhood based clinics in order for there to be a resolution to the problem of minority health care in this community. I would certainly like to ask that both the Minnie Jones Health Care Center and the New Hope Community Health Center match that money either through grant funds or other private donation, or whatever. I think that we need to look at the issue of making sure that our citizens have proper health care and this would be only a fraction of what both of those agencies requested. I don't remember the numbers but I know it was much higher." The New Hope Community Health Care Center requested $175,000 and the Minnie Jones Health Care Center requested $46,000.

Vice-Mayor Peterson (and Chairman of the Housing & Community Development Committee) said that he agreed with Councilwoman Sitnick, but, all the programs, which totaled $3.2 million, were good but the federal government only gives us $1.6 million and we can't fund them all. He agreed that there is a national health problem, but as Chairman of the Committee, he feels the majority of this money should go for housing and hopefully new housing for people that can't afford to own their own homes. He felt we would be overlapping with Buncombe County if the City starts funding health clinics. That is what the Buncombe County Health Department is for. He said that there are a lot of great people that live in the projects - but what they really want is out of the projects and own their own place and his purpose, as Chairman, is try and get as many of these folks in their own homes.

Councilwoman Field (and Chairman of the HOME Consortium) felt that for this year's funding was set in accordance with Council's priorities and health care was not one of the priorities set - therefore, most of the money went towards housing. She said that if Section 108 funding becomes available, that might be a good way to free up some CDBG funds in the future which might allow us to take another look at health care. We are also talking about re prioritizing how we will distribute the money but by the time we get that in place the new block grant requirements will be in place and these organizations will not be eligible according to those new requirements. She wondered if, when we have our joint City/County meeting, we talk to the County and find out why it's not working and perhaps the County can take a hard look at how it delivers services - perhaps it needs to move some of those services to the community rather than having everybody go downtown to one place. Perhaps we can work with the County to come up with some innovative way of providing the services that our tax dollars are already paying for.

Councilwoman Sitnick said that "when I realized that health was not our focus, clearly it's a requirement, however, I opened my comment with saying that if the Health Department is not being used, I'd like to find out why. If it is - what I want to do is substantiate what we've been told - that's it's not being used by a significant portion of the minority population. I don't know whether the County is the place to find that out solely or perhaps in addition to asking the County Commissioners we can ask some of the folks in the minority community why there are not going to the Health Department for their care. And the other thing, I was not asking to take any money out of any program that we have already settled on. I think we did about the best job we could in allocating those funds. Are there monies anywhere else? If we find out that there's a real need, maybe we can work with the County, maybe we can shore up the program and make it more accessible. But if two groups in the community have come forth and are willing to expend themselves by way of neighborhood based clinics then there's got to be a reason for it and I'd like to know why. Maybe the Mayor can have a worksession scheduled and have some information presented to us."

Mr. Vierra said that City staff would have to find out from the minority population, not the County, why they don't go to the County for health services.

City Manager Westbrook stressed that health services is a County function and we should depend on them for those services. He did say that he will have staff prepare a report on this matter for Council.

It was the consensus of Council to proceed with the appropriate action at the Council's next formal meeting.

TRANSIT CENTER SCHEMATIC DESIGN

Mr. Carl Ownbey, Transportation Planner, said at that the Council worksession in January, where the status of the proposed transit center was discussed, staff was directed to inform Moser Mayer Phoenix to proceed with the schematic design phase of this project. The design drawings for Aston Street were to detail how the new center could function at this location and how all vehicle and pedestrian ingress and egress from the adjoining properties could be safely accommodated with the integration of transit vehicles. The intent of this step was to give the City information to present viable solutions to a potential legal issue.

After two months of engineering and surveying work by Moser Mayer Phoenix, a presentation to the RFP Committee on April 6 detailed three design options that could accommodate a full pulse transit system (where all buses arrive at one time thereby eliminating any wait time for a passenger to transfer to another bus) at this location. After a lengthy discussion, Moser Mayer Phoenix was directed to concentrate on the one option that was obviously the <u>safest</u> for transit operations and pedestrian movement and to present a practicable schematic design to the Authority at their April 12 meeting. During this meeting, the Authority was presented with the base option with two additional scenarios.

After discussion, the Transit Authority agreed to recommend that City Council continue with the development of this project and approve the preferred design that eliminates <u>all</u> vehicle access (other than buses) onto this section of Aston Street; thus minimizing bus, vehicle, and pedestrian conflicts.

Mr. Walt Teague and Dave Duchscherer, the design team from Moser Mayer Phoenix, explained the design to Council and answered various questions raised by Council.

It was their recommendation and the Transit Authority's endorsement for the City to investigate how to acquire the property located at the corner of Coxe Avenue and Aston Street. A possibility might be to trade land with the owner of that property. They then pointed out the advantages to the purchasing that additional piece of property - for instance, it might alleviate the potential legal concern with the owner of the parking lot at the corner of Aston and Asheland, it will allow the alignment on the other side of Aston Street, it will perhaps allow some parking spaces for the employees that work at the Transit Center, it will allow a bigger vending area in the Transit Center, and it will allow for a pedestrian access from the parking lot to the Social Services Building,

Upon inquiry of Vice-Mayor Peterson, Mr. Teague said it would take approximately six months to build this facility.

Councilman Swicegood moved to (1) have staff investigate the possibility of either trading or purchasing the piece of property located at Coxe Avenue and Aston Street and bring that information, along with an appraisal back to the Council; and (2) approval of the design that eliminates all vehicle access (other than buses) onto this section of Aston Street. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

SALE OF $3,000,000 GENERAL OBLIGATION WATER BONDS, SERIES 1995

Mr. Larry Fisher, Finance Director, said that this report transmits the resolution with provides for the issuance of $3,000,000 General Obligation Water Bonds, Series 1995. In order to accomplish the bond sale on its targeted sale date of June 6,1995, this resolution needs to be adopted by the City Council on May 9, 1995.

At the request of Councilwoman Sitnick, Water Resources Director Mike Holcombe said that he would provide her with a bullet-type information sheet of where the $26 Million Water Bonds have been spent.

It was the consensus of Council to proceed with the appropriate action at the Council's next formal meeting.

RENOVATIONS OF THE NORTH CONFERENCE ROOM

Mr. Mike Holcombe, Water Resources Director, said that there is a need for a designated meeting room for the Asheville-Buncombe Water Authority as well as additional meeting space for the City of Asheville. The Water Authority approved $50,000 for renovations to the North Conference Room at it's April 18, 1995, meeting. The Authority would be responsible for financing this project initially and recovering costs via amortized yearly credits on rents paid to the City.

The Water Authority has outgrown the City Council Chamber since becoming a Regional Water Authority with ten members. Having a designated meeting room would eliminate the need for the Authority to move its meetings to various locations in City Hall depending on the availability of rooms. It would also provide additional space for meetings for the City of Asheville and free up the sixth floor training room for training purposes.

When Councilwoman Sitnick asked why the Asheville-Buncombe Water Authority did not meet in the Courthouse, Mr. Holcombe said that the Courthouse is already crowded and the renovation of the City Hall space will also create another meeting room area for City activities.

Upon inquiry of Councilman Swicegood on the amount of the actual renovations, Mr. Holcombe said that not only with physical renovations need to be made, but furniture and audio visual equipment will need to be bought.

Due to the City Hall Building being a historic property, Councilwoman Field hoped that they would do everything possible to alleviate the acoustics problem in that room without lowering the ceilings. Mr. Holcombe said that the Asheville-Buncombe Historic Resources Commission and the Parks and Recreation Department will make sure the guidelines are followed.

It was the consensus of Council to approve the proposed renovations of the North Conference Room.

BUDGET AMENDMENT - WEST CHAPEL ROAD PARK (RAY L. KISIAH PARK)

Mr. Irby Brinson, Interim Parks and Recreation Director, said that this budget amendment, in the amount of $27,600, will transfer funds from the Reid Center gym floor project to the West Chapel Road Park to construct a concession/restroom facility.

The next phase of construction for the Ray L. Kisiah Park includes the construction of the concession/restroom facility. This park area would serve over 450 youth for the South Asheville Little League Program. The original budget for the park did not include construction of this facility; however, due to cost savings in regard to sod being donated by the Little League and the donation of architect fees for the design of this facility, a current balance of $60,000 remains in this budget. Based on cost estimates for this project, the total cost of construction is estimated at $94,260. In addition, a credit is outstanding in regard to work that has been performed at the facility during construction which includes a $10,000 credit from MSD. With the addition of this credit, our total available funds for this project are now $70,000. The remaining $24,260 needed to complete this project will be coming from funds not used to refinish the gym floor at Reid Center which came in well under budget. A total of $39,600 had been budgeted to replace the gym floor, however, staff decided to refinish the floor at a cost of approximately $12,000. Therefore, the remaining funds of $27,600 will be appropriated in order to complete this much needed concession/restroom facility at Ray L. Kisiah Park. No additional funds will need to be appropriated for this project since funding will be shared between these two projects.

Vice-Mayor Peterson suggested a park in North Asheville be built similar to this park - perhaps in the Richmond Hill area (which the City already owns the land).

Councilman Swicegood moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

BUDGET AMENDMENT - UNDERGROUND STORAGE TANK REMOVAL AT STEPHENS-LEE RECREATION CENTER

Mr. John Miall, Risk Management Director, said that this budget amendment, in the amount of $50,000, is to begin removal and clean up of the old heating oil tank at Stephens-Lee Recreation Center.

An inspection of the old tank reveals that it has leaked extensively over time. In addition to tank removal, we know we will have to remediate contaminated soil. By federal law we must have this completed by December 31, 1995, but due to the amount of oil in the soil, it is likely the program will worsen as ground water spreads the oil, and a later clean up will get progressively more expensive.

This budget amendment is predicated upon a projected cost for removal and clean up from consultant Patrick Price.

It was the consensus of Council to proceed with the appropriate action at the Council's next formal meeting.

BUDGET AMENDMENT - STREET AND SIDEWALK CONTRACTS

Mr. Bob Wurst, Audit/Budget Director, said that this budget amendment, in the amount of $193,441, provides for the additional construction and engineering costs related to unanticipated water line work completed under Contract No. 13 in the Biltmore area. The additional budget amendments are for small cost over-runs on projects that are complete and ready to close.

In August of 1994, Vaughn & Melton recommended a construction change order to Street and Sidewalk Contract No. 10 that included unanticipated water utility work in the Biltmore area. The budget amendment for Contract 10 includes the cost for this additional construction as well as the cost for the associated engineering change orders.

A secondary budget amendment is to provide for additional costs in Contract Nos. 4, 5 and 6 which are primarily for engineering services on construction that has already been completed. Another budget adjustment is to provide for incidental overruns on Contract No. 9. The final budget amendment is for professional and engineering service costs on the 1989 storm drainage inventory.

All of these budget amendments are supported by revenue that is to be, or has been, recovered through charges to the Water fund, to MSD, or are covered by an appropriation of existing fund balance. All of these additional costs have been included in the projections for the 1995-96 budget in the Street & Sidewalk Fund.

Interim Public Works Director Larry Ward answered questions relative to the reasons for the cost overruns, noting that these are for old projects.

City Manager Westbrook noted that there is now a policy in place which should eliminate project cost overruns.

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

PARKING STUDY STATUS REPORT

Mr. Larry Fisher, Finance Director, said that Council directed him to seek funding for the $23,940 consultant study of parking in three specific areas downtown: the Grove Arcade area, the Commerce Street area, and the City/County Plaza area.

On January 24, 1995, Council directed staff to ask the State, the County and other private business interests to what extent they would contribute to the parking study. Mayor Martin made contact with the Governor's Office. We have now received a memorandum from the N.C. Dept. of Administration dated April 13, 1995, which says that "the State is interested in a fifty-fifty split of the cost ..." of the study. Mayor Martin sent a letter dated February 3 to Dr. Gene Rainey, Chairman of the Buncombe County Commissioners, requesting their assistance in funding the study. Chairman Rainey responded to the Mayor by letter dated February 16 declining to participate. A letter dated February 14, 1995, bearing the Mayor's signature, was sent to 30 individuals or organizations with interests in the downtown area soliciting contributions for the study. In response to that letter, the City has received $2,500 in contributions.

At its April 13 meeting, the Downtown Commission members inquired about the status of the study. As a result of the status report given, Scott Jarvis, one of the County's two appointees to the Downtown Commission, indicated his willingness to re-approach the County to solicit their financial support of the study. To that end, he requested a letter be written stating the current funding situation which letter was written on April 21.

In summary, the City has a commitment from the State to pay for one-half of the cost of the study up to $12,500. We have $2,500 of contributions in hand and Mr. Jarvis is seeking participation from the County to help fund the remainder.

Discussion surrounded why pay for a study to tell us that parking is needed, when we already know parking is needed, in particular around the City/County plaza area. It was pointed out that if we have to finance a parking garage, financial institutions require a third party feasibility study. The study not only tells if parking is need, but how many spaces and some solutions to the parking problems.

Councilwoman Sitnick wondered if the City would be able to implement the results of the study when the recommendations are made.

It was the consensus of Council to find out if the County is willing to participate in this study and have staff report back to Council.

CONSENT AGENDA:

Dedication of the Ray L. Kisiah Park

Summary: The Parks and Recreation Advisory Board recommends that the youth sports facility located on West Chapel Road be named the Ray L. Kisiah Park for his commitment and dedicated service to the parks and recreation profession and the residents of the City of Asheville.

Request from Aberdeen Homeowners Association to Accept Stuart Circle as a City System Street

Summary: The Aberdeen Homeowners Association has agreed that they would like to dedicate Stuart Circle to the City of Asheville as a public street.

French Broad River Park Grant for Trail Extensions

Summary: Funds are available through the State of N.C. Dept. of Environment, Health and Natural Resources, Water Resources Division, for improvements to various water resources within the State. The City wishes to apply for funding for extending our trail system at the French Broad River Park.

The French Broad River Park represents the City of Asheville's first phase of a major greenway system being developed along the French Broad and Swannanoa Rivers. The initial phase of this development was completed in the fall of 1994 and includes restroom facility, picnic shelter, parking lot, accessible sidewalks and trail system, and observation decks. Part of this overall plan includes extending the trail system throughout the park. The price of this project is estimated to be approximately $30,000. The Parks and Recreation Department is requesting grant funds which would be matched by our crews. This match would include labor and use of equipment to clear these trails and to supervise the contracted construction during this project.

Bids - Truck Mounted Asphalt Patching Machine

Summary: Recommend award of bid to purchase a truck mounted asphalt patching machine for use in the Public Works Department to the low bidder of H.D. Industries Inc., Jacksonville, Texas, in the amount of $79,500.

Bids - Annual Contract for Asphalt Materials

Summary: Recommend award of bid for 10,000 tons Type 1-2 for street surface program to bidder with lowest cost with consideration of transportation, APAC Carolina Inc., Asheville, NC, in the amount of $25.00 per ton ($24.00 after discount). Also recommend award of bid for 1,550 tons of assorted mixes for pavement patching to APAC Carolina Inc., Asheville, NC, at a price of $25.00 per ton ($24.00 after discount) and Banks Brothers Construction Company, Hendersonville, NC, at a per ton price of $24.00. Mileage from job site to the nearest plant determines where to make purchase. Net prices are equal.

Ms. Danette Thompson, Senior Buyer, answered questions from Council relative to bulk purchasing.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER ITEMS

Opportunity Corporation of Madison and Buncombe Counties

Vice-Mayor Peterson expressed his disappointment in the Opportunity Corporation and the appointment process to the Board of Directors.

Comments by Councilwoman Sitnick

Councilwoman Sitnick passed out a list of "policy, motion, resolution and random thoughts for City Council consideration" dated April and May 1995. She hoped Council would look over these items.

She also talked about Article 2 of our City Charter stating that the Council is required to meet no less than once a week and that we are to provide reasonable time for public input at those meetings. She said there were a lot of people at this meeting today who wanted to comment on the Broadway widening project, however, they didn't do that because there were no public comments asked for. She felt it was important for this Council to look at our Charter and to decide whether or not we are going to have open, public meetings every week - whether they are worksessions or formal meetings because they are not defined in the Charter. She noted that public input should be welcome and personally she feels there should be public input at every single meeting - it's their government, not ours. We are only here to represent them. She felt badly for all the people who left work early, put money in the meters, came to the meeting and then they were not allowed to speak.

Mayor Martin agreed that this item needed to be addressed. He instructed the City Attorney to draft an amendment to the City Council's Rules and Regulations for Council to consider.

Councilwoman Sitnick said that if Council decides to cut all public input other than at official announced public hearing, she will be very opposed to that.

MSD Representatives

Councilwoman Sitnick asked that either the City Council meet with or write a letter to the City's three representatives on the Metropolitan Sewerage District Board to let them know how we would like for them to represent the City and remind them keep us informed of things that impact Asheville.

Mayor Martin adjourned the meeting at 6:15 p.m.

Magdalen Bamboore
CITY CLERK

MAYOR

Tuesday - May 9, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: Councilman Herbert J. Watts - in hospital regarding knee problems

INVOCATION

Vice-Mayor Peterson gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-66 - RESOLUTION NAMING THE WEST CHAPEL ROAD PARK AS "RAY L. KISIAH PARK"

Mayor Martin read the resolution stating that the Parks and Recreation Advisory Board recommends that the youth sports facility located on West Chapel Road be named the Ray L. Kisiah Park for his commitment and dedicated service to the parks and recreation profession and the residents of the City of Asheville.

Much progress has been made in parks and recreation during the 23 years that Ray Kisiah has been employed by the City of Asheville, including the construction of parks, recreation centers, and the creation of numerous programs for the youth, senior citizens, and adults of this community. The past year has been particularly productive, with the construction of Valley Springs School Park, the first phase of the French Broad River Park, and the first phase of the West Chapel Road Park area. In addition, the Asheville Parks and Recreation Department, under the direction and influence of Ray Kisiah, was the first City Parks and Recreation Department in the United States to become accredited.

Councilwoman Field moved for the adoption of Resolution No. 95-66. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 255

B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 15-19, 1995, AS "NATIONAL POLICE OFFICERS WEEK" AND MAY 17, 1995, AS "PEACE OFFICERS MEMORIAL DAY"

Mayor Martin proclaimed the week of May 15-19, 1995, as "National Police Officers Week" and May 17, 1995, as "Peace Officers Memorial Day" in the City of Asheville and presented Police Chief Will Annarino with the proclamation. Chief Annarino briefed the Council on the activities taking place during the week.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE THE DEMOLITION OF THE STRUCTURE LOCATED AT 1 BUFFALO STREET

ORDINANCE NO. 2210 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 1 BUFFALO STREET

Mayor Martin opened the public hearing at 5:20 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Mr. Wayne Hamilton said that 1 Buffalo Street was inspected on March 26, 1993, and found the following conditions: the dwelling's north, south, east and west walls are structurally unsound; the structure has insufficient sanitary facilities, no water, pest and garbage infestation; the structure is abandoned; being occupied by vagrants; and is unfit for human habitation. Proper notices have been sent to the property taxpayer of record and on March 26, 1993, the owner was given 30 days to repair or demolish. No action has been taken to date.

Mayor Martin closed the public hearing at 5:22 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2210. This motion was seconded by Councilman McClure.

On a roll call vote of 6-0, Ordinance No. 2210 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 79

B. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO ALLOW BANKS AS A PERMITTED USE IN THE COMMERCIAL SERVICE DISTRICT

ORDINANCE NO. 2211 - ORDINANCE AMENDING APPENDIX A - ZONING OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE TO ALLOW BANKS, BANK BRANCHES AND SIMILAR INSTITUTIONS AS PERMITTED USES IN THE COMMERCIAL SERVICE DISTRICT, TO CLARIFY THE FRONT YARD REQUIREMENT, AND TO MAKE CERTAIN TECHNICAL CHANGES

Mayor Martin opened the public hearing at 5:23 p.m.

Deputy City Clerk Corns presented the notice to the public setting the time and date of the public hearing.

Ms. Julia Cogburn, Planning Director, explained that this amendment to the zoning ordinance will allow banks. bank branches and similar institutions as permitted uses within the Commercial Service District.

Mayor Martin closed the public hearing at 5:24 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2211. This motion was seconded by Councilman Swicegood.

On a roll call vote of 6-0, Ordinance No. 2211 passed on its first and final reading.

III. UNFINISHED BUSINESS:

A. CONSIDERATION OF GROUP DEVELOPMENT APPROVAL FOR HAW CREEK MEWS PHASE III

Mayor Martin said that this public hearing was held on March 21, 1995, and tabled until this date.

Ms. Patty Joyce, Senior Planner, said that since the Planning and Zoning Commission's public hearing on March 1, 1995, for Haw Creek Mews Apartments, Phase III, City staff have received a revised site plan dated May 8, 1995. She summarized the site plan changes as outlined in a letter dated April 28:

1. Density requirements - The site is zoned for 105 rental apartments. We initially proposed 98 units. We now agree to further reduce our density to 89 units. A total reduction of 15% from the allowable density.

2. Building height - We agree not to construct any 3-story buildings on the property line.

3. Landscape buffer - We agree to increase the required landscape buffer along Beverly Road and Avon Road by increasing the planting one additional row of evergreen trees 3 ft. to 5 ft. in height, 4 foot on center. This will add no less than 178 trees to the landscaping plan.

4. Construction meeting - We agree to participate with the liaison committee that would meet quarterly during construction. The committee would consist of a representative from the developer, one from the City Planning staff and three representatives from the Haw Creek community.

5. We agree to contribute $15,000 to the City of Asheville to be used for roadway improvements along Beverly Road and Avon Road. The City would determine how best to spend this contribution.

Ms. Joyce said that a meeting was held between the developers and the Haw Creek community.

Upon inquiry of Councilwoman Sitnick, Ms. Joyce stated that the Planning & Zoning Commission approved the site plan subject to four conditions - one of those being that any changes in the site plan will require the approval of the Planning and Zoning Commission.

Councilwoman Sitnick asked Ms. Joyce for an interpretation of two things that she found in the Asheville Code that she wasn't sure how, or if, they applied. One was under "development standards" or "group development built in phases". She read, "if a group development is to be built in various phases, each individual phase of development as well as the total development shall be capable of existing as an independent unit, capable of creating an environment of sustained desirability and stability." That's a development standards of the City of Asheville. Does that mean that each section of a group development must be capable of creating an environment of sustained desirability and stability? Is this a group development built in phases? Ms. Joyce replied that it is not.

Councilwoman Sitnick then read Section 30-5-4 "R-3 Medium Density Residential District is a district in which the general character of the area is similar to the low density residential district except that structural coverage is greater and a greater intensity of activities is permitted. The overall population density is increased, however, these regulations are not to be constructed as intending to be detrimental to the residential environment." She questioned if, given the R-3 medium density standards, there is no concern that this particular density is detrimental to the residential environment? Ms. Joyce said that by placing the standards as they are in the ordinance, we are saying that those are the allowable densities in that district.

Upon inquiry of Vice-Mayor Peterson about the density reduction, Ms. Joyce said that the developer is proposing to reduce the density by nine units. He looked for places to take out nine units. Also, he understands Ms. Harrison's problem with having a 3-story building next to her property line - so he's going beyond the ordinance saying that he will not place a 3-story building on the property line.

Vice-Mayor Peterson stated that after talking with a former Council member who was present when this project first began in 1989 or 1990, it was his understanding that the developer was allowed to building a certain number of units period. He stressed that developer mentioned nothing about future expansion plans. He questioned the number of units approved versus the number of units built in the first phase.

Councilwoman Sitnick said that there have been a number of previous erosion violations at Phases I and II. She asked Ms. Joyce if we had at that time an erosion control ordinance? Ms. Joyce replied that we did. Councilwoman Sitnick then said that if we had an erosion control ordinance then and there were major violations that they were cited for, and most of those violations were violations that negatively impacted neighboring property, then how can we guarantee that, given the fact that we have an erosion control ordinance now and given the fact that the topography is similar or even steeper than Phases I or II, how are we going to be guaranteed that we are not going to have erosion violations now. Ms. Joyce said that we can't be guaranteed that violations won't occur.

Councilwoman Sitnick asked Ms. Joyce to point out on the site plan where the children's play areas are located.

Councilwoman Sitnick then asked Mr. James Cheeks, Traffic Engineer, a number of questions. She started out by saying that she is not a traffic engineer. "During the public hearing that we had, you made a statement that the road classification or category was being changed from a C to a D - can you tell me what C means, what D means, and why the change?" Mr. Cheeks responded that a level of service C describes a stable condition on a roadway which means that motorists have freedom to maneuver but some of their maneuverability is noticeably restricted. He cited the examples of making turns at intersections or having a little delay in getting out of the driveway. Also, driver's attentions tend to increase when they are in a level of service C. He said that it is safe for pedestrians to walk on a roadway that has a level of service C but they also need to be more cautious - looking for vehicles turning into driveways, turning in and out of intersections, etc. On a level of service D, that's on a border of unstable flow. That means that the freedom to maneuver is severely limited. People do have delay at intersections, and delays getting in and out of commercial and residential establishments. Also, driver discomfort level is

drastically reduced when the level of services goes from C to D - people get more upset and they tend to blow their horn more. Pedestrian comfort is very low and caution is high in a level of service D. He said that in particular, we didn't see a reduction in the level of service on Beverly Road, which is a level of service C, with the new Haw Creek Mews being proposed. Councilwoman Sitnick questioned if Beverly Road is a level of service C even after the 89 or 98 unit addition? Mr. Cheeks replied yes.

Further responding, Mr. Cheeks said that Avon Road goes from the level of service B to a level of service C in the p.m. and continues at a level of service B in the a.m. Councilwoman Sitnick thought that Mr. Cheeks' statement at the public hearing was that he was changing the road classification from a D to a C. Mr. Cheeks replied that it would go from a B to a C on the peak p.m. hour on Avon Road. Nothing was changed to a D.

Councilwoman Sitnick then noted that at the public hearing she asked Mr. Cheeks about the grade, especially on Avon where the driveway access was going to be and he had not considered grade - he had to go somewhere and get that number. Since the grade question was not addressed, did the traffic study performed include all relevant variables, like the degree of assent on Avon Road, the straightness of Avon Road, the amount of pedestrian traffic on Avon Road, and whether there was a way for pedestrians to safely get out of the way should a car force someone off the road? Mr. Cheeks' responded by saying that the question Councilwoman Sitnick asked was what was the grade at the driveway. He explained that in our analysis, the average grade across the entire length of the roadway is what is studied. The actual grade at the driveway was not looked at. When driveway analyses are done, the grade of the driveway is looked at - but at this point we were not doing a driveway analysis mainly because the driveway was situated in a place on a roadway that has substantial amount of volumes that are low enough where it would not be a problem. This is consistent with how we do driveway permits throughout the City.

Councilwoman Sitnick said that in other words, the guidelines that Mr. Cheeks' used to make the analysis are based on a national standard. She said that since those national standards were applied to a local road, did they also take into consideration the local road factors. Mr. Cheeks replied that they did. He said the question Councilwoman Sitnick mentioned was if there was any place for pedestrians. He responded that this consideration is taken into account into the analysis because on our computer model we show that there is no sidewalk, no edge line and no area for anyone to walk except for in the road.

Councilwoman Sitnick asked Mr. Cheeks if he feels there is adequate safety provisions on Avon Road for pedestrians to safely get off the road should they need to. Mr. Cheeks responded that based on the volume of traffic on Avon Road, yes. Councilwoman Sitnick then asked Mr. Cheeks where the pedestrians would go - into the ditches?

Councilwoman Sitnick then asked Mr. Cheeks if he knew of the study by the N. C. Department of Transportation that predicted which state roads would be stressed by over use by the year 2000 and that New Haw Creek Road was one of those. Mr. Cheeks responded that he was not familiar with that study.

Councilwoman Field said that someone has brought to her attention that the addition of this many units might over-stress the Buncombe County school system in that area. She wondered if we have any idea of

how many children could be generated from an apartment complex of this number? City staff responded that this particular information is not known at this time.

In response to Councilwoman Field, Ms. Joyce said that, pursuant to Council's suggestion at the public hearing in March, the developer and the community had an informational meeting last night.

Ms. Barber Melton, representative of Haw Creek Homeowners Association, responded to Councilwoman Field's earlier question relative to overcrowding schools. She said that a letter was generated by the principal of Haw Creek School at the beginning of the school year that said no transfers could be taken into Haw Creek School due to overcrowding conditions.

Ms. Melton commented on the meeting that was held with Mr. Simon, and others, last night. The homeowners explained that the density was the problem and so the only compromise the Homeowners Association could come up with was the same compromise offered in January - which was to build to an R-2 standard (which would be approximately 36 units on that piece of property).

In response to Vice-Mayor Peterson's question on why the meeting didn't take place until the last minute, Ms. Melton said that the Homeowner's Association had offered a compromise at the January meeting and that was to build to an R-2 standard. The homeowners asked if the developer could build patio homes or single family homes (anything to reduce density) and they were told that the developer needed more profit than any of those would generate. She said that Mr. Simon did call her at home and talk at great length and she also received two letters from him. The community was willing to see if there was any other way to compromise but frankly, there was not - due to the road system, the infrastructure and the density problem. The community is stuck with two entrances and the State says there can be no more. Ms. Melton said that basically she didn't want to bring in someone from Virginia Beach, Virginia, for nothing more than the community had already presented to him in January. The community just didn't have anything else to offer.

Upon inquiry of Vice-Mayor Peterson, Ms. Melton said that she was on the Planning & Zoning Commission at the time Haw Creek Mews was originally built and the approved plan dated February 6, 1991, stipulated that 244 units were to be built.

Mr. Jim Siemens, attorney for the Mulvey family, suggested a compromise that might work would be to eliminate the driveway on Avon Road thereby preserving the level of service B on Avon Road. He felt that the City Council does have discretion under Sec. 30-6-1 of the City Code to find that this development is not in harmony with the character of Haw Creek.

Upon inquiry of Mayor Martin, City Attorney Slawter explained that the position of Mr. Siemens is that the language in the preamble that states "it is further intended that these developments will be in harmony with the character of the district in which they are located and that adequate standards will be maintained pertaining to the public heath, safety, welfare and convenience" could override the specific criteria set forth in the zoning ordinance. So that even though the Planning Department reported that the specific criteria were complied with, Council, in its discretion, could deny the group development project based upon a failure of the developer to show that the development would be in harmony with the character of the district and

that it would maintain adequate standards pertaining to public health, safety, welfare and convenience. He said that he has previously provided the Council with an opinion in regard to these provisions in relation to the comparison of the preamble to the specific standards and his opinion has not changed.

When Councilwoman Sitnick asked Ms. Elizabeth Graham, Chairman of the Planning & Zoning Commission, what the vote was on the condition that "any changes in the site plan will require the approval of the ... Commission", Ms. Graham responded that the vote was 4-3 to approve the plan with not only that condition, but three others as well.

Upon inquiry of Councilwoman Sitnick, City Attorney Slawter said that if Council approved the original site plan with the amendments outlined by Ms. Joyce earlier, it would not have to go back to the Planning & Zoning Commission for their approval.

Councilman Swicegood stated that in the past City Council has overruled the Planning & Zoning Commission's recommendations and also has gone against staff recommendations. It was his recommendation that this not be sent back to the Commission.

Mr. Jerry Crow, attorney for the developer, again raised the issue as to whether or not Councilwoman Sitnick and Vice-Mayor Peterson are really able to make a decision that is not biased, arbitrary or capricious. "I would suggest by their continuing questions of the staff members today, particularly as it relates to the prior project history, erosion violations, number of them, severity of them, again, demonstrates a bias consistent with their public comments prior to this Council ever deliberating on whether or not this application should be approved."

Vice-Mayor Peterson asked to respond by stating that "Mr. Crow you have been up here three times, you've made that accusation every time and frankly I'm getting tired of being accused of what you are saying. I feel like it is a councilman's job, what they are elected for - neighbors call council people in and they have a meeting - it's our job to go listen to these people. So personally, I think it's your opinion, you think it was wrong, that we went to this neighborhood meeting. I think you are way out of line by even insinuating that because that's what we're elected for."

Mr. Crow said that "I have raised these objections before and I will continue to do so. It is your opinion and it is my opinion. I bring it forth again and I appreciate your comments and I appreciate the good work you do. On this particular application I raise it, submit it to Council for consideration and I'm otherwise prepared to make my remarks." He said that in this particular case he would submit that the applicant has produced competent material and substantial evidence to establish the existence of facts and conditions that would require approval of this application. It's a permitted use. It's been zoned R-3 for approximately 30 years. The density is less than even the ordinance requires. Concern by Council was expressed at the last meeting and the developer has addressed those concerns by reducing the density even further. The City's traffic engineer and two private engineering consultants say it is well within all guidelines regarding traffic flow and safety of the community and pedestrians using these streets. There is evidence that the intersection below this property is still so under-utilized that it doesn't even qualify for a traffic light. There is nothing to support the suggestion that it is burdensome from a safety point of view as it relates to traffic in the

neighborhood. Regarding water, fire and police - all of those have been presented and they are of sufficient capacity to service this project without interfering with the use of the local residents and therefore will not impact the local residents. He pointed out what surrounds the property currently - apartments across the street, apartments up the street, commercial highway one block away, and commercial below the site. He pointed out the 2010 Plan and that Plan is consistent with the application - the zoning is consistent with what was called for in this area for the next 20 years. In that Plan it is directed that land must be more intensively utilized to accommodate the growth of this community. He said the application can't be denied simply because in Council's view it would adversely affect public interest. Development is in harmony with the character of the district in which the property is located. There are adequate standards that will be maintained. He said there is nothing in the zoning ordinance that discriminates against an out-of-town developer who comes to Asheville, invests his money and applies for an application to use property consistent with it's permitted uses under the zoning ordinance. He asked that these continuing references to out of town developer not be considered as a part of Council's deliberations. He said that any erosion violations in the past have been corrected and urged Council not to use that as a reason to deny the application.

Councilwoman Sitnick asked Mr. Crow to provide the Council with the comments that Vice-Mayor Peterson and she made that compelled him to come up, for the third time, and make that statement. She also agreed with Vice-Mayor Peterson that it's their job to look into as much information and do their homework on every issue that comes before the Council. "If I discovered in the record at City Hall that there were violations, I feel I had a right to ask about them - I don't think that it indicated a bias at all. If anything, it indicated a desire to want to know. We can discuss whether or not fixing erosion violations after the fact is just as good as preventing them at another time. So, if you can provide us with the statements that you consider created a bias on our parts, I would be very grateful for that."

Mr. Crow responded by saying that "first of all, your question about an erosion violation and its impact upon the adjoining neighbors, that's certainly not a condition - it's not in the preamble, it's not in any of the factors that you consider for a group development permit. I think it demonstrates a bias, in my opinion, of an example of where you're reaching out for facts totally unrelated to this application pending before you. You asked for a response and I'm trying to give it to you and I'm certainly not trying to aggravate you in doing it."

Councilwoman Sitnick responded by saying "you said that you don't think that I ought to be reaching out to situations and facts that don't pertain to this issue. I might remind you, sir, that you attempted to point out to me that there were many roads and intersections that had major traffic problems in Asheville. So, this was not such a big deal to create another one. You pointed out to me that in your area you had a major road problem and yet they increased the density. So you tried to convince me about something reaching out for facts that didn't pertain to this issue either."

Mayor Martin said that "in the case of the Haw Creek Mews developments we have seen considerable community input about the expansion of this apartment complex. The Planning & Zoning Commission has approved the Mews expansion by a 4-3 vote. We have seen that each requirement demanded of the developer has been met. The staff has recommended approval based on the developer meeting the City's

requirements. In addition, we have asked for, and received, an opinion from our attorney. Let me read that opinion - 'North Carolina case law provides that where a developer shows compliance with the specific standards set forth in a development ordinance, anyone opposing the project has the burden of proving that the development would, nevertheless, be to the detriment of the public health, safety and welfare of the community. To make such a showing, there must be competent material and substantial evidence in that regard. Of all the staff persons who spoke, I believe their evidence unanimously reflected compliance with the group development standards and reflected no detriment to the public health, safety or welfare. There were, of course, numerous statements by residents of the area to the fact that their health, safety or welfare would be jeopardized. For the most part, those statements appeared to me to be conclusions reached by those persons, rather than statements of fact upon which a legal conclusion could be drawn. In other words, it is not enough for a person to feel that their health, safety or welfare might be jeopardized. They must state specifically why that is the case, and show that to be factual. Additional objections raised by the residents related to going beyond the letter of the law and denying the project based upon the spirit of the law. Unfortunately, the law does not allow Council to do so. This Council, as well as previous Councils, have established a set of guidelines for developers to follow for such projects. The fact that some would like to have different zoning in this area, some would like to eliminate the flood plain from consideration of the acreage for which project density can be calculated, some would like to return to the requirements that an environmental impact statement be required, and some would like to impose additional requirements that are not currently in the law, are all well-intended proposals, but are not requirements that could be imposed on a developer coming in under our current ordinance.' We, on Council, who have a neighborhood background are really on the horns of a dilemma in a situation like this. Do we listen to the neighborhood and ignore the rules, procedures, zoning requirements and place the City at risk? We are a nation of people governed by laws. No one, nor any organization is above the law. How can we, who create the rules and laws, arbitrarily ignore them. We have a set of circumstances, I for one, do not want to repeat. I would ask the neighborhood to work toward solutions and work with our Planning Department to make realistic changes. We must deal with the facts as they are and the facts are not always the way we want them to be. I noted with interest a Letter to the Editor in this morning's paper written by Chris Pelly. In his last paragraph he says 'If the council sides with the developer, I think it sends a clear message to neighborhoods all over town. Out-of-town developers are more important to council than the people who voted council members into office.' That's not true and I think that Mr. Pelly and the rest of you know it's not true. We are very sensitive to people in this area. Regardless of what you think, you must realize that we are very sensitive, very caring people and we feel very strongly about this. But where the laws are clear and where people meet the standards - the standards are for everyone. It's unfortunate that this has come up. Some of you have stated that your neighborhoods have gone to the Planning Department three times in the past several years and I'm sure that Planning has given you the information that you thought was correct at that time with no intent to harm or injure the neighborhood in any case. We are here and this is now. We would like to ask you to work with us to assist your City government to be sensitive to the needs of its citizens in every area. In this case, I don't feel that we can retroactively pass laws to benefit some while taking existing rights from others. I'm sorry that this has caused such a deep rift in our community. I really

regret that. I think that Council, and this is my own opinion and I'm sure it's not shared by all of Council, but we must uphold the laws fairly and apply them equally to law who come before us."

Councilwoman Sitnick said that "I couldn't agree with Mayor Martin more that this is a nation of laws, let me point out that it used to be the law that women couldn't vote, that women couldn't own property and one of the laws of the land was the rule of thumb which said that you couldn't beat your wife with a stick bigger than your thumb. So we've come a long way and laws are meant to be changed and amended. We have new building and housing laws all the time, so while I agree with you that this is a nation of laws, I also think that they are in constant evolution. We have been advised that we are to consider the opinions of the experts who have come before us and I certainly value their opinions. I guess I don't understand the logic of why we must only consider the testimony of the experts who have been only brief observers of this situation in Haw Creek and why we aren't suppose to weigh the concerns raised by one individual after another. Property owners, who like Mr. Simon, have also put much time and money into their investments in Haw Creek - their homes, their land, their families. And, in most cases they have put 100% of their life savings into those investments. The citizens have raised legitimate concerns and I'd like to read some of them into the record. Concerns about sewage flow and sewage back-up and sewage odor. Concerns about traffic and safety, pedestrians and safety, children and safety. High density. There will be 300 more people and 500 more cars. Concerns about accidents. winding, narrow, steep roads. The violations referred to earlier, especially those that impacted other peoples property. There have been concerns raised about the increased units lowering property values which will lead to decreases in property tax revenues to the City. Concerns about high density units leading to less property tax for the City than perhaps single family units. These units will certainly diminish the desire of other developers to build single family developments in the other areas in Haw Creek. There's certainly an increased burden on municipal services. There have been concerns raised about the minimum standard of the housing. There have been concerns raised about diminution of the quality of life in Haw Creek. Concerns raised about the density being very hard on infrastructure that eventually everybody will have to pay to improve, repair or replace. There have been concerns raised about the over-crowding at Haw Creek Elementary School and the fact that there are six trailers there now to accommodate that over-crowding. There are concerns about getting out of driveways, litter, noise, crime, water pressure for fire and convenience has been referred to as being variable. There are concerns about flooding, stormwater run-off and erosion. There are only two entrances and exits to the valley and that's been raised a number of times. There are folks in Haw Creek who feel because they approached the Planning Department on a number of occasions going back to 1985 that they were denied the opportunity to request a rezoning. Quite frankly, they were told to wait for the UDO. My personal opinion - I don't think the burden of proof should be on the citizens. Most people in the public are politically naive and that's not a negative comment but most people don't understand the process. And, if they're told by the government to wait, most people will go back and wait. And that's what this community did. There were concerns raised in a petition signed by 151 people. There have been letters and phone calls. There have been concerns raised that the Planning and Zoning vote of 4-3 did not really constitute a major mandate. There were concerns raised about the lack of children's play areas in the first phases. As has been mentioned earlier, Haw Creek Elementary has reached student capacity according to the school, not the residents. There have been concerns raised about the fact that just because a

traffic study is acceptable under national guidelines doesn't make it tolerable, convenient or safe for the folks who use that road. There have been concerns about no sidewalk at the School. It is a County school in the City. There are folks who have raised concerns about the fact that they have been annexed and dumped on. There have been concerns raised about the fact that the original proposal on the first phases were changed after City Council at that time approved them. There are concerns about the topography of this land and that an environmental impact statement should have been done, even though it was removed from one part of the law it was referred to as a must in another part. There have been concerns raised about why there are so many unfilled units at Haw Creek I and II and why the need to build more. There have been concerns raised about density, density, density. There are concerns about the fact that our zoning laws are 20 years old and don't necessarily apply to the current day needs and conditions. There are concerns that have been raised about children not being able to walk safely to the ballfield in the summertime and the traffic count was done in February. There are concerns about the traffic study being flawed because it didn't include all relevant variables like where do the people go to get out of the way of a car coming around the corner, or a truck over-turning. There were concerns raised that because there were other problems in Asheville regarding traffic and pedestrian issues that this would be just another one added to that long list of traffic and pedestrian problems. As elected officials, it is our job to be responsible care-takers of this community and it's residents. We must govern as though people matter and progress must occur as though people matter. People have lost hope in representative government. You know, of, by and for. Why do we have public hearings if not to hear the public. Why do we have discretionary power, if we're not going to use discretion? Are we just a rubber stamp City Council. Isn't our allegiance supposed to be for the citizens? Aren't we just as bound by the intent of the law as by the law itself? Aren't we using our best judgment? Aren't we ever allowed to say enough is enough? And should our judgment be based on what is legally defensible or socially just? I am always, I repeat, always, motivated by my conscience. And if I can't vote my conscience as a member of this Council, then perhaps I don't belong on this Council. My conscience propels me to move to deny approval of the proposed development based on the following findings of fact:

1. That the development proposed would create an apartment complex with population density exceeding any other in Buncombe County.

2. That the neighborhood surrounding this proposed development is composed entirely of single family homes.

3. That the population density of the proposed development is not in harmony with the single family character of Haw Creek.

4 That the population density of the proposed development poses a threat to the public health, safety, welfare and convenience.

5. That Section 30-6-1 of the Asheville Planning and Zoning Ordinance reads in pertinent part as follows: 'It is the intent of this section to encourage the flexibility and innovation in the design and location of structures and land development. It is further intended that these developments will be in harmony with the character of the district in

which they are located and that adequate standards will be maintained pertaining to the public heath, safety, welfare and convenience.'

6. That the petitioner has failed to show that the proposed development is in harmony with the character of the district in which it is proposed and that the petitioner has failed to show that adequate standards will be maintained pertaining to the public health, safety, welfare and convenience.

7. That under Humble Oil v. Alderman (this is from the South Eastern 2nd Reporter, 20 N.C. App. 675, and other cases), the City Council of Asheville is afforded discretion and authority by the North Carolina state legislature to find the existence or non-existence of fact, on which the operation of Section 30-6-1 of the Asheville Planning and Zoning Ordinance, is made to depend.

8. That this motion to deny approval of the proposed development is based on the language of Section 30-6-1 of the Asheville Planning and Zoning Ordinance and not general public policy concerns.

And therefore that approval of the proposed development be denied. This motion was seconded by Vice-Mayor Peterson. By a show of hands, the motion failed on a 2-4 vote, with Councilwoman Field, Councilmen McClure and Swicegood and Mayor Martin voting "no".

Councilman Swicegood commented on some of Councilwoman Sitnick's statements by saying that this Council does listen and take into consideration to all citizen comments. Relative to the rubber stamp City Council, about 3-1/2 years ago it was our decision, as Council, to hold a public hearing to hear the neighbors concerns.

Councilman Swicegood then moved to approve the amended New Haw Creek Mews, Phase III, site plan which allows 89 units (without this amended site plan going back to the Planning & Zoning Commission), in addition to the other provisions outlined above by Ms. Joyce and also subject to the following conditions: 1) approval of the erosion control plan, 2) approval of the storm drainage plan and issuance of a "no-rise" certificate for the area along Haw Creek, 3) approval of driveway access permits, and 4) any changes in the site plan will require the approval of the Planning and Zoning Commission. He explained that this amended site plan does not need to be sent back to the Planning and Zoning Commission for their approval, however, if, after Council's approval of this 89 unit site plan, something were to vary (for instance buffering), that any change in the site plan be brought back to the Planning & Zoning Commission for their approval. This motion was seconded by Councilman McClure.

Councilwoman Field questioned Mr. Siemens' suggestion to close the driveway entrance on Avon Road. Mr. Cheeks explained that why he recommended that the driveway entrance on Avon Road remain.

Councilwoman Sitnick moved to amend the motion to state that no variances be granted to the developer for this project after today. City Attorney Slawter explained that Councilman Swicegood's motion, although it doesn't require this approval to go back to the Planning & Zoning Commission, requires if there are any changes after today, they would have to go back to the Planning & Zoning Commission. Therefore,

any change whatsoever, even something less than the requirement for a variance, would have to go through the process again. He further went on to clarify that no variances could be considered after today without having to go back to the Planning & Zoning Commission. If there was something that required a variance the Planning & Zoning Commission could only make a recommendation to the Council and the City Council is the proper authority to act on that change for the developer.

Councilman Swicegood said that if something positive for the neighborhood comes up in the future and the developer wanted to change something that the neighborhood might want, then they wouldn't be able to it with Councilwoman Sitnick's amendment. Therefore, he would not support the motion amendment.

Councilwoman Sitnick withdrew her motion to amend the original motion made by Councilman Swicegood.

By a show of hands, Councilman Swicegood's motion passed on a 4-2 vote, with Vice-Mayor Peterson and Councilwoman Sitnick voting "no".

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-67 - RESOLUTION AUTHORIZING SUBMISSION OF THE CONSOLIDATED PLAN TO N.C. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR 1995-96

Mr. Marvin Vierra, Community Development Director, said that this Consolidated Plan serves as a planning document as well as the application for funding under the CDBG and HOME grant programs. The Consolidated Plan will need to be submitted to HUD by May 15, 1995.

The City will be applying for $1,694,000 in CDBG and $1,172,000 through the HOME program for the coming year. Anticipated program income will increase available revenue for CDBG activities by $130,000. Matching funds for HOME grant for the City of Asheville will increase revenue for HOME activities by $36,000.

He said the City's Housing and Community Development Committee has reviewed applications from Agencies for CDBG funds and recommends CDBG funding allocation. He then described the recommended funding. The Asheville Regional Housing Consortium has reviewed applications from agencies and local governments for HOME funds and recommended HOME funding allocations. He then described their recommended funding.

Mr. H. K. Edgerton asked that the City Council consider some solutions to improve the conditions of housing in this City.

Mr. Matthew Bacoate, Chairman of the YMI Cultural Center Community Development Corporation and also representative of Dr. Grant, urged Council to fund their project in the South Pack Square Redevelopment Area in the amount of $292,000.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Field moved for the adoption of Resolution No. 95-67. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

B. RESOLUTION AMENDING RESOLUTION NO. 95-15 AND RESOLUTION NO. 95-48 PROVIDING FOR THE ESTABLISHMENT OF AND MEMBERSHIP ON THE STEERING COMMITTEE ON THE REEVALUATION PROCESS FOR THE HEAD OF MONTFORD REDEVELOPMENT PLAN

City Attorney Slawter said that at the May 2, 1995, City Council worksession, the Council concurred in the amendment of Resolution Nos. 95-15 and 95-48 so as to expand the Head of Montford Steering Committee from 13 persons to 14 and add Albert L. Sneed Jr. as a member.

Councilwoman Sitnick said that after the meeting on March 2, she gave it further thought and she was concerned about having 14 members. She asked if that was a practice of the City's advisory and ad hoc committees to have even numbered boards?

City Attorney Slawter said that the Asheville-Buncombe Water Authority has had an even number of members for some time. He said there was no set rule.

Councilwoman Field said that at the May 2 worksession, it was Council's consensus to move forward with this resolution. Since that time she has received many telephone calls and many letters from the community. She said that she will vote against the resolution because she is convinced that Mr. Sneed does have a conflict of interest and should not be on that particular committee. It is a stake-holders committee and the people who have a stake in that community should be involved. Mr. Sneed is paid by one of the stake-holders as their attorney. She was surprised that he even agreed to do it. In this particular case she has been convinced that it is not the appropriate thing for Mr. Sneed to serve on this committee even though it is an advisory committee.

Vice-Mayor Peterson said that Mr. Sneed was placed on this ad hoc committee because we wanted a balance and he was to be the CIBO representative and as he stated, if we replaced him with another member, he would expect the other member to be from CIBO. We had members on that committee from the Chamber and from business. What we wanted was a committee that was representative of all the different areas in Montford. It was his opinion that Mr. Sneed was the CIBO representative and that's why he will support the resolution.

Councilwoman Sitnick said that she was under the impression that Mr. Sneed was appointed to represent Shirley Dozier's interest, which certainly deserved to be represented. She thought there was another member appointed to represent CIBO. She will also vote against the resolution even though she was the person who initially appointed Mr. Sneed. She was not aware that Ms. Dozier was going to be on the committee as well from the beginning. Having given it further thought, she realized that appointing Mr. Sneed to represent her and her being appointed as well, was not creating balance but rather creating off balance on the committee.

Ms. Valerie Larrea, 46 Cumberland Circle, spoke in opposition of the resolution stating that this process has become tainted and as voted April 6 does not represent the neighborhood's wishes nor does this committee as proposed to be amended today present a reasonable tool to constructively represent community opinions.

Mr. H. K. Edgerton, 94 Cumberland, spoke in support of the resolution appointing Mr. Sneed for several reasons.

Mr. Herb Cott, 133 West Chestnut, spoke in opposition to the resolution and felt that Mr. Sneed had a conflict of interest on the committee.

Mayor Martin said that Council sent this back to the community because they wanted to have the community come to some agreement. Personalities and conflicts of interest are now detrimental to the whole process. He would still like to see the community come to some agreement. However, he too feels that there is a possibility of a conflict of interest for Mr. Sneed on this committee.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of the resolution. This motion was seconded by Councilman Swicegood and failed on a 3-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "yea" and Mayor Martin and Councilwomen Field and Sitnick voting "no".

Regarding the Head of Montford Steering Committee, Councilwoman Sitnick said that it has been indicated to the City Clerk and the Planning Director that a member of the committee, Nora Valentine, is ill and will not be able to attend the May 22 meeting. Ms. Valentine has asked to be able to send a neighbor as a proxy vote for her at the May 22 meeting. She was not aware if the Council had a policy on proxy voting for ad hoc citizen advisory committees or not. Councilwoman Sitnick asked that Council consider whether or not Ms. Valentine can send a proxy voter for her to that meeting or whether or not the Council would rather go back to the original resource list and appoint a replacement from that list. Councilwoman Sitnick said there has been some concern raised about the fact that Ms. Valentine is an African American woman and lives on the west side of Montford. Perhaps, if the Council does not want to allow her to send a proxy voter, they may want to choose somebody from the list who most closely resembles Ms. Valentine's area of residence.

H.K. EDGERTON - COMMENTS REGARDING THE ABSENCE OF COUNCILMAN WATTS AND THE REPRESENTATION OF THE AFRICAN AMERICAN COMMUNITY

Mayor Martin commented that since we have no rules adopted by the Council regarding committees, we don't have to go back to the resource list. He feels it's up to the chairman of the committee if they wish to accept that proxy. He didn't feel Council needed to go back and make re appointments because there are a sufficient people on that committee and we should move forward.

Mr. H. K. Edgerton was concerned about protocol in the Council meetings. He said that Councilman Watts has been absent for a long time and he brings a great deal of expertise and addresses the concerns of the African American community. He asked if it would be appropriate to have an alternate councilman. He feels there is too much going on affecting the African Americans in Asheville in which they have no input on. He feels that the African American vote is gone.

Councilwoman Sitnick explained that Councilman Watts has been participating in the Council meetings frequently via speaker phone. Today there was a circumstance where he was not able to participate. However, he has been as responsible as he can be under the circumstances. He has read his packets, he has been delivered the same material the Council has received and he has represented his point of view and points of interest.

Mayor Martin said that we, on Council, represent all the citizens of Asheville.

V. CONSENT AGENDA:

Resolutions and Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 18, 1995, THE BUDGET WORKSESSION HELD ON APRIL 25, 1995, AND THE WORKSESSION HELD ON MAY 2, 1995

B. RESOLUTION NO. 95-68 - RESOLUTION ACCEPTING STUART CIRCLE AS A CITY SYSTEM STREET

Summary: The Aberdeen Homeowners Association has agreed that they would like to dedicate Stuart Circle to the City of Asheville as a public street.

RESOLUTION BOOK NO. 22 - PAGE 257

C. RESOLUTION NO. 95-69 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE N.C. DEPARTMENT OF ENVIRONMENTAL, HEALTH AND NATURAL RESOURCES FOR A GRANT TO DEVELOP A TRAILS SYSTEM AT THE FRENCH BROAD RIVER PARK

Summary: Funds are available through the State of N.C. Dept. of Environment, Health and Natural Resources, Water Resources Division, for improvements to various water resources within the State. The City wishes to apply for funding for extending our trail system at the French Broad River Park.

RESOLUTION BOOK NO. 22 - PAGE 258

D. RESOLUTION NO. 95-70 - RESOLUTION TO AWARD BID FOR A TRUCK MOUNTED ASPHALT PATCHING MACHINE

Summary: Recommend award of bid to purchase a truck mounted asphalt patching machine for use in the Public Works Department to the low bidder of H.D. Industries Inc., Jacksonville, Texas, in the amount of $79,500. A complete copy of the bid summary is attached hereto as Exhibit "A".

RESOLUTION BOOK NO. 22 - PAGE 259

E. RESOLUTION NO. 95-71 - RESOLUTION TO AWARD ANNUAL CONTRACT FOR ASPHALT MATERIALS

Summary: Recommend award of bid for 10,000 tons Type 1-2 for street surface program to bidder with lowest cost with consideration of transportation, APAC Carolina Inc., Asheville, NC, in the amount of $25.00 per ton ($24.00 after discount). Also recommend award of bid for 1,550 tons of assorted mixes for pavement patching to APAC Carolina Inc., Asheville, NC, at a price of $25.00 per ton ($24.00 after discount) and Banks Brothers Construction Company, Hendersonville, NC, at a per ton price of $24.00. Mileage from job site to the nearest plant determines where to make purchase. Net prices are equal. A complete copy of the bid summary is attached hereto as Exhibit "B".

RESOLUTION BOOK NO. 22 - PAGE 261

F. RESOLUTION NO. 95-72 - RESOLUTION PROVIDING FOR THE ISSUANCE OF $3,000,000 GENERAL OBLIGATION WATER BONDS, SERIES 1995

Summary: This report transmits the resolution with provides for the issuance of $3,000,000 General Obligation Water Bonds, Series 1995. In order to accomplish the bond sale on its targeted sale date of June 6,1995, this resolution needs to be adopted by the City Council on May 9, 1995.

On November 5, 1992, voters of the City of Asheville authorized the sale of $26,000,000 of general Obligation Bonds for water purposes. Two sales have been made against that authorization. On March 31, 1992, $19,000,000 was sold and on August 4, 1994, $4,000,000 was sold. This $3,000,000 sale will provide funds for additional water system improvements and will utilize the balance of this authorization. This resolution provides for the issuance of the bonds. The maturity schedule in the resolution has been approved by the Water Resources Department. All costs related to this sale, including debt service on the bonds, will be paid from Water Resource Department funds.

RESOLUTION BOOK NO. 22 - PAGE 263

G. MOTION SETTING A PUBLIC HEARING ON MAY 23, 1995, TO AMEND THE ZONING ORDINANCE TO ALLOW TAXI STANDS IN THE CENTRAL BUSINESS DISTRICT AND THE COMMERCIAL HIGHWAY DISTRICT

Councilwoman Field moved for the adoption of the Resolution & Motion Consent Agenda. This motion was seconded by Councilwoman Sitnick and carried unanimously.

V. CONSENT AGENDA:

Ordinances:

A. ORDINANCE NO. 2212 - BUDGET AMENDMENT RELATIVE TO STREET AND SIDEWALK CONTRACTS

Summary: This budget amendment, in the amount of $193,441, provides for the additional construction and engineering costs related to unanticipated water line work completed under Contract No. 13 in the Biltmore area. The additional budget amendments are for small cost over-runs on projects that are complete and ready to close.

ORDINANCE BOOK NO. 15 - PAGE 84

B. ORDINANCE NO. 2213 - BUDGET AMENDMENT RELATIVE TO UNDERGROUND STORAGE TANK REMOVAL AT STEPHENS-LEE RECREATION CENTER

Summary: This budget amendment, in the amount of $50,000, is to begin removal and clean up of the old heating oil tank at Stephens-Lee Recreation Center.

ORDINANCE BOOK NO. 15 - PAGE 87

C. ORDINANCE NO. 2214 - BUDGET AMENDMENT RELATIVE TO RAY L. KISIAH PARK

Summary: This budget amendment, in the amount of $27,600, will transfer funds from the Reid Center gym floor project to the West Chapel Road Park to construct a concession/restroom facility.

Councilwoman Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Vice-Mayor Peterson.

On a roll call vote of 6-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENT

Mr. Carl Ownbey, Transportation Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. She said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on May 3, 1995:

GEORGE'S STOR-MOR ADDITION

Mr. Ownbey said that this project is for the proposed additions to George's Stor-Mor mini-warehouses at 600 Patton Avenue. This expansion will include six one-story structures to be added to the existing complex.

On April 3, 1995, the Planning Department received a site plan for the proposed expansion of George's Stor-Mor. The proposal is for the construction of six one-story structures (26,100 square feet) for mini-warehouses. The site plan was submitted to the City's Technical Review Committee for their comments.

On May 3, 1995, the Planning & Zoning Commission reviewed the site plan. The adjoining property owner to the west addressed his concern with stormwater runoff. He requested that a closer review during construction be done because problems did arise during construction of the initial project. The Commission unanimously approved the project with five conditions.

The City Planning staff and the Commission recommended approval with the following conditions:

1. Letter from Council closing the 150 feet of Westwood Place;
2. Location of street trees at the intersection of Hazel Mill Road and Westwood Place be approved for site distance by Traffic Engineer;
3. Receipt of the letter outlining adequate water flow for fire protection;
4. Provide detail drawing of rear gate to Traffic Engineer; and
5. Comply with the Stormwater Ordinance and Erosion Control Plan.

Upon inquiry of Councilwoman Sitnick, Mr. Ownbey said that there was no stormwater ordinance during the first construction phase. Councilwoman Sitnick said that after hearing at the Planning & Zoning Commission meeting what was endured by this adjoining property owner, made a great case that this Council passed the stormwater ordinance.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. PACK PLAZA PARKING GARAGE

Mayor Martin said that the City Council wishes to announce that it has recently received a proposal from the Bank of Scotland for the purchase of Pack Plaza parking garage for a purchase price slightly over $3,000,000. In addition, the Bank of Scotland proposal would provide for restructuring of indebtedness to the Bank and the City so as to provide for possible repayment of $1.4 Million of debt to the City ahead of the last $1.4 Million of debt to the Bank if the project should ever sell for enough to create that much cash flow. Currently, the debt structure provides for the Bank to be paid in full before the City receives anything. The restructuring would provide the City with some potential for a better chance of return of a portion of the current indebtedness to the City, but would require an additional investment by the City in the project in the amount paid by the City to the Bank for the garage. The Council has had closed session discussions regarding this proposal and has decided that it is not in the best interest of the City to accept the offer. The decision to reject the Bank's offer is not unanimous, but it is the desire of the majority of Council, and the offer will be rejected.

At 7:25 p.m. Councilman McClure left the meeting unexcused.

C. H.K. EDGERTON

Mr. H.K. Edgerton stated that he is the First Vice-President of the NAACP, is the representative of the Black Leadership Caucus for District 50 and also sits on the Carolina Association of Minority Contractors Board of Directors. He believes that this Council has the intent to do the right thing for all citizens; however, he feels the Council is missing a pulse in the community. He speaks for a great deal of disenfranchised persons in this City when he says that they feel they have been left out of the economic process, the political process and a great deal of social processes. He says his people feel that they will never be included fairly in this process and feels very disheartened by the whole process.

D. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of April 6-19, 1995: BellSouth (Water), Shirley Neal (Streets), BellSouth (Water), Lisa Coleman (Engineering), Helen Werhan (Streets), Susan Roderick (Streets), Ethel Austin (Streets), and George Krendell (Water).

He said that the following claims were received during the week of April 20-26, 1995: Tom Carter, Uptown Cafe (Water) and Bear Creek Apartments (Water).

He said that the following claims were received during the week of April 27 - May 3, 1995: Taylor Stoneman (Sanitation), Mary J. Wilson (Streets), Gary Hart (Water), Don Walters (Streets), Renee Hudson (Water), Cheryl Collins (Streets), Wind-in-the-Oaks Condos (Water) and Alan O'Donnell (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:28 p.m.

Magdalen Bauldree
CITY CLERK

MAYOR

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CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 442-95
ONE (1) TRUCK MOUNTED ASPHALT PATCHING MACHINE FOR
PUBLIC WORKS DEPARTMENT, STREET DIVISION

BID OPENED: THURSDAY, APRIL 13, 1995 3:00 P.M.

ITEM NO.	H. D. INDUSTRIES, INC. JACKSONVILLE, TEXAS	PUBLIC WORKS EQUIPMENT AND SUPPLY, INC. MONROE, NORTH CAROLINA
CAB & CHASSIS		
MAKE:	Ford	Ford
MODEL:	FT-900	FT900
YEAR:	1995	1995
BODY		
MAKE:	Pro-Patch	Northwest Mfg. "Thermolay"
MODEL:	TCM-600-160	625-120
AMOUNT:	$79,500.00	$80,662.00
DELIVERY:	150 - 160 Days	120 - 150 Days
TERMS:	1/2%10/Net 30	Net 10

Exhibit "A"

The following companies submitted a 'No Bid': A. E. Finley & Associates, Charlotte, NC; Linear Dynamics Inc., Parsippany, NJ; Crafco, Inc., Chandler, AZ; Bruder/Sharpe, Inc. , Madison, NC; Interstate Equipment Company, Statesville, NC; and North Carolina Equipment Company, Asheville, NC.

The following companies did not respond: Matthews Ford, Asheville, NC; Arrow Equipment Company, Greensboro, NC; Asphalt Equipment Development Corporation, Fort Wayne, IN; Bryant Steel Works, Inc., Thorndike, ME; B. R. Lee Industries, Inc., Charlotte, NC; Phillips Fibers Corporation, Greenville, SC; Poly-Tech Laboratories, Inc., Manaroneck, NY; Poweray Infrared Corporation, Amityville, NY: Scranroad, Inc., Waco, TX; Wylie Manufacturing Company, Oregon, IL; Zimmerman Equipment Company, Nashville, TN; Aeroil Products Company, Inc., S. Hackensack, NJ; Alpha Equipment, Sterling, CO; Blackwell Burner Company, San Antonio, TX; Buckeye Equipment Company, Sandusky, OH; Etnyre Company, Oregon, IL; General Equipment Company, Owatonna, MN; Hepola Company, Deer Creek, MN; Midland Machinery Company, Tonawanda, NY; Porta-Patcher, Ft. Wayne, IN; Prismo Safety Corporation, Parsippany, NJ; Rosco Manufacturing Company, Madison, SD; Tarrant Manufacturing Company, Saratoga Springs, NY; Thermal Power Company, Belmont, MI; Wikel Manufacturing Company, Sandusky, OH; Zimmerman Industries, Inc., Ephrata, PE; P-B Loader Manufacturing Company, Fresno, CA; E. L. Hilts and Company, Hickory, NC; Mitchell Distributing Company, Asheville, NC; L. B. Smith, Inc., Charlotte, NC; M. H. Corbin, Inc., Fayetteville, NC; and Carolina Truck Center, Hickory, NC.

CITY OF ASHEVILLE
PURCHASING DIVISION

BID SUMMARY
BID REQUEST NO. 443-95

BID OPENED: MONDAY, APRIL 17, 1995 3:00 P.M.

SECTION NO. I - 10,000 TONS, TYPE I-2 FOR STREET SURFACE PROGRAM
TO BE PICKED UP IN TRUCK LOAD QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	TON NET PRICE	PLANT LOCATION/(MI.)	*NET DELIVERED COST PER TON	BID DEPOSIT
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$250,000	4%15/N30	$24.00	Swannanoa (12.0) Enka (9.15) Weaverville (10.0)	$25.20 $24.915 $25.00	5% Bid Bond
BANKS BROTHERS HENDERSONVILLE, N. C.	$24.00	$240,000	Net 30	$24.00	Fletcher (18.6)	$25.06	5% Bid Bond

SECTION NO II - 1550 TONS ASSORTED TYPE HB, F-I, H, I-1 AND I-2 FOR PAVEMENT
PATCHING PROGRAMS TO BE PICKED UP IN SMALL BATCH QUANTITIES AS NEEDED

VENDOR	TON UNIT PRICE	AMOUNT	TERMS	PLANT LOCATION	*NET COST PER TON
APAC-CAROLINA INC. ASHEVILLE, N. C.	$25.00	$385,750	4%15/N30	Swannanoa (E) Enka (W) Weaverville (N)	$24.00
BANKS BROTHERS HENDERSONVILLE, N. C	$24.00	$37,200	Net 30	Fletcher (S)	$24.00

*NET DELIVERY COST = BID PRICE LESS DISCOUNT + (MILEAGE X .10 PER TON MILE)
a) SECTION NO. I: MILEAGE DETERMINED FROM THE PUBLIC WORKS FACILITY ON SOUTH CHARLOTTE STREET TO BIDDER'S PLANT.
b) SECTION NO. II: MILEAGE DETERMINED FROM SPECIFIC JOB SITE TO BIDDER'S PLANT.

Exhibit B

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Tuesday - May 16, 1995 - 2:00 p.m.
Room 623 - City Hall

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Joseph Carr Swicegood (arrived at 3:23 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Herbert J. Watts - knee problems

JOINT BUDGET MEETING WITH THE ASHEVILLE TRANSIT AUTHORITY

The Asheville Transit Authority presented their proposed budget to the City Council. Questions and answers were addressed throughout the worksession. Questions which could not be readily answered would be followed up on by the Authority and answers made available to the Council.

Discussion surrounded the Authority's request for the City to establish a mass transit fund, the use of big buses vs. smaller vans, the actual number of people riding the buses vs. available seats, and the fee of the Management Company for administrative costs.

The City Manager stated that the recommended Fiscal Year 1995-96 budget will be adjusted to include the Transit Authority's requested funding.

JOINT BUDGET MEETING WITH THE ASHEVILLE-BUNCOMBE WATER AUTHORITY

The Asheville-Buncombe Water Authority presented the Fiscal Year 1995-96 Water Fund budget, which balanced budget was unanimously adopted by the Authority on May 16, 1995.

Some highlights include: (1) a reduction in this year's approved staffing levels of five full-time positions for a total of 140 authorized positions; (2) adjustments to the six year Capital Equipment Plan to defer (for one year) certain items; (3) full implementation of the Authority's Management Information Infrastructure including Automated Mapping/Facility Management system, Supervisory Control and Data Acquisition, and the new Water Billing System; (4) debt service for the remaining ($3 million) of the 1991 "Fix it First" General Obligation Bonds for pipeline replacement and for the $3 million State loan or the regional finished water transmission main from the Mills River source; (5) a comprehensive program of distribution system flushing; and (6) continued emphasis on safety in the workplace, enhancement of fire protection, water efficiency, and empowerment of workers through Total Quality Management.

Councilwoman Sitnick asked that the Authority to make sure that the rate structure will be fair to small and large customers. She also said that she knows that there have been some cuts to the Water Efficiency Task Force budget that had to be made, but she hoped that the cuts are not an indication of any less of a priority given to water efficiency and that that is still a major priority for the Water Authority.

PAYROLL DEDUCTIONS

Ms. Pam McGrayne, Personnel Director, said that the City currently provides payroll deductions for City-sponsored fringe benefit programs (i.e., health insurance, dental insurance, retirement, 401 (k), 457,

credit union, etc.) United Way, Colonial Insurance (which is no longer a part of the City's sponsored fringe benefit program), the Fraternal Order of Firefighters (FOF) and Fraternal Order of Police (FOP). The Police Benevolent Association (PBA) and the Asheville-Buncombe United Public Workers (ABUPW) have recently requested dues check-off through payroll deduction.

Ms. said the City's current policy does not provide guidance on how to respond to the pending requests. Staff has researched the legalities of a payroll deduction policy and the administrative costs of processing deductions. After discussing these matters with the City Manager, a policy has been developed with allows payroll deductions for (1) where required by law (i.e., FICA, taxes, retirement); (2) for City-sponsored fringe benefit programs (i.e., health, life and dental insurance, 401 (k), credit union); (3) for 501 (c) (3) charitable organizations which are part of a "federation" (a group of ten or more voluntary charitable organizations) that meet certain requirements; and (4) for 501 (c) (3) "employee organizations" (an organization whose active members are current and retired City employees) that meet certain requirements. Payroll deductions for organizations which do not fall into any of these categories (i.e., Colonial Insurance) will be discontinued as of January 1, 1996. In addition, no other organizations (i.e., PBA and ABUPW) will be allowed unless the above criteria is met. The credit union, however, can provide a similar service for paying dues and is currently providing it to the AFA and ABUPW.

She said the FOF and the FOP currently have payroll deductions now but she is unsure if they will meet the criteria under the new policy; the PBA has requested payroll deductions; the AFA and ABUPW have requested payroll deductions and they are now going through the credit union for a similar service; the United Way currently has payroll deduction and is now a 501 (c) (3) organization; and Colonial Insurance currently has payroll deductions, but does not fall into any of the above mentioned categories and will be discontinued as of January 1, 1996.

She said that the City Council has already authorized the City Manager to execute an administrative policy dealing with payroll deductions through the City's Personnel Policy.

Upon inquiry of Councilwoman Field, Audit/Budget Director Bob Wurst said that based on estimates received from Finance and Personnel, direct costs for each payroll deduction is approximately $15,000 per year. This would include clerical time for preparing paperwork, data entry time, and time required for various accounting functions involved with the deduction.

Vice-Mayor Peterson stated that the ABUPW has offered to pay for any administrative costs associated with the payroll deduction.

It was determined that the current organizations (FOF, FOP, PBA, AFA, ABUPW and the United Way) can open up a $5 account with Premier Credit Union and have a similar payroll deduction withdrawn through that agency. The AFA and the ABUPW already are using that system.

Mr. Kevin West, representative of the PBA, urged Council to allow his professional organization be able to take advantage of the City's payroll deduction system. He feels that the benefit should be applied equally. He didn't think the PBA would have any problem in paying the administrative costs associated with the payroll deduction but would have to have that verified. He stated that his organization consisted of approximately 51 members, 31 of which are City employees.

Mr. Bob Warren, attorney representing the ABUPW, urged Council to give the ABUPW, which is not a political organization, the same service currently being offered to the FOP and FOF.

Mr. Carroll Williams, President of the ABUPW, read a prepared statement and said that this proposed policy excludes them from even being considered for payroll deduction. He feels that City management is unwilling to work with this organization. He asked that "the City Manager and the Assistant City Attorney to stop looking for ways to discredit and fight us and rather to begin to work with us in a responsible and respectful manner." He asked that they be offered the same payroll deduction service currently being offered to the FOP and FOF. He said that his organization consisted of approximately 90 members, approximately 70 of which are City employees.

Vice-Mayor Peterson and Councilwoman Sitnick stated that the only fair way to handle this was to either let all the organizations have payroll deductions or not.

Councilman Swicegood felt that the payroll deduction policy should only be where required by law and for City sponsored fringe benefit programs.

Councilman McClure agreed with Councilman Swicegood stating that if there were no other alternative for these organizations he might feel differently; however, the credit union service is available for only $5 to open an account.

When asked for the City Manager recommendation, City Manager Westbrook recommended Council concur in the policy as outlined above by Ms. McGrayne, allowing for four categories of payroll deductions.

Vice-Mayor Peterson moved to allow payroll deductions only for items required by law, for City sponsored fringe benefit programs, and any other organization of 35 or more members if the group is willing to pay a fair amount for administrative costs. This motion was seconded by Councilwoman Sitnick.

Councilman Swicegood suggested amending the motion to allow payroll deductions only for items required by law and for City sponsored fringe benefit programs, allowing 90-120 days for transition.

Vice-Mayor Peterson and Councilwoman Sitnick accepted Councilman Swicegood's suggestion to amended their motion.

Ms. McGrayne said that during this 90-120 time period she would notify the affected organizations in writing, check with the credit union to see if they can and are willing to handle this service.

Councilwomen Field and Sitnick wondered if this matter needed to be tabled in order to get some clarification from the Assistant City Attorney as to allegations by the ABUPW and in order to give the other organization not present at the meeting today an opportunity to be heard. It was determined that the organizations were notified and if they had any comments, they could always submit them to the Council in writing.

It was the consensus of Council to direct the City Manager to allow City payroll deductions for only items required by law and City sponsored fringe benefit programs.

RESERVOIR ROAD SAFETY ISSUES

Mr. James Cheeks, Traffic Engineer, said that the Traffic Engineering Division has performed an additional safety analysis on Reservoir Road. Our analysis indicate that Reservoir Road varies in width from 11 feet 6 inches to 12 feet 3 inches and is a residential road that serves as a connector between the Windswept Apartments, Wind in the Oaks Condominiums, residential properties and Biltmore Avenue. Motorists are currently using this connector for trips home from school, to work, to shopping, to eating and entertainment.

Traffic counts indicate that in 1994, Reservoir Road had an average daily traffic volume of 347; 1995 traffic counts indicated that the average daily traffic has dropped from 214 vehicles.

Reservoir Road has a steep grade and limited sight distance at the sharp curve near the intersection of Buchanan Road. To mitigate the impact of this situation, Traffic Engineering has reduced the speed limit on Reservoir Road and Buchanan Road to 15 miles per hour, installed "Slow, Curve" warning signs, installed "Slow, Children at Play" signs, installed additional street lighting in the curved portion of the roadway, installed raised pavement rumble strips and roadside delineators.

The Traffic Engineering Division has reviewed the operation of this roadway and determined that sufficient measures have been taken to guarantee the safety of motorists and residents along this roadway. To make this roadway safer and to increase the visibility at the intersection of Reservoir Road and Buchanan Road, the bushes at the edge of the roadway located on private property must be removed or cut down and the intersection converted to a 3-way stop location. The property owner has indicated that they will not remove or cut down the bushes. The location of these bushes are in violation of Section 30-3-10 of the Code of Ordinances which prohibits anything from being erected, placed, or allowed to grow in such a manner to materially impede vision, etc. If this new multi-way stop is installed, it will provide the necessary control to regulate the movement of traffic through this intersection.

Ms. Jan Howard, property owner of the bushes, gave several reasons why she felt the bushes should not be cut down to 2 feet.

Upon inquiry of Councilman Swicegood about the City's liability if they know the bushes are in violation but does nothing about it, City Attorney Slawter said that if the Traffic Engineer feels that the obstruction of the bushes will not cause a safety hazard (and he does) that the City's liability should be reduced.

Councilwoman Sitnick felt that Reservoir Road is just not a safe road. The real issue is enforcement on the Road. She suggested staff come back with a report to Council in about six months to report on how the safety issues are working.

Mayor Martin instructed Ms. Howard to keep the bushes maintained in order to avoid any safety problems.

Mr. Ken Myrick, 1 Buchanan Road, asked that raised pavement rumble strips be located on all three sides of the intersection.

ANIMAL CONTROL ORDINANCE

Major Jay Breedlove said that on October 11, 1994, the Buncombe County Board of Commissioners adopted and enacted a comprehensive animal

control ordinance. The comprehensive ordinance provides, among other things, for the termination of an owner's rights to his/her animal under certain circumstances, mandatory confinement of dogs or cats that bite human beings, euthanasia of an animal under certain circumstances, specific requirements that animal owners provide humane care for their animals and authorization to impose certain additional protective and preventive measures against animal owners so as to minimize the risk such animals may pose to the public.

Members of City Council expressed an interest in the City amending its animal control ordinance so as to be identical or comparable to Buncombe County's ordinance. While this ordinance is not identical, it is comparable. The comparability and significant amendments are as follows:

1. The owner is provided with specific guidelines regarding the confinement and care of their animals and a failure to abide by those standards may result in the animal control officer seizing the animal or the animal being euthanized.

2. An appeal appeals board consisting entirely of City staff.

3. Addition of a civil penalty for the owner's failure to install protective and preventive measures for confinement of dogs when requested to do so by the animal control officer.

4. Clearly defined duties and responsibilities for animal control officers, including a requirement that they canvas the City to ascertain that dogs and cats are currently inoculated for rabies; investigation of reported animal bites by rabid animals and issuance of permits to keep more than six animals per lot.

Certain significant items included in Buncombe County's ordinance that are not in the City's draft ordinance are as follows:

1. An escalating civil penalty for violation of the County's ordinance ranging from $50 to $500 depending upon whether it is a first offense, second offense or third offense, etc.

2. A policy of the County that provides for, among other things, the issuance of a criminal summons if civil penalties are not paid.

3. A provision that makes it unlawful to fail to have a dog or cat vaccinated for rabies.

4. Immediate destruction of wounded or diseased animals that re suffering.

5. No additional staff or operational costs are anticipated.

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

PENALTY PROVISIONS RELATED TO SOLID WASTE MANAGEMENT

City Attorney Slawter said that the City's solid waste ordinance, which includes provides for enforcement of littering, currently provides

for enforcement only by prosecution as a misdemeanor for any violation. Pursuant to a long-standing agreement with the County, this City ordinance is enforced within the City by an environmental control officer who is paid by the County. The person currently in that position is Rick Ramsey. Mr. Ramsey feels that the best means of enforcement of the ordinance would be through a method of civil penalties, with a misdemeanor warrant to then be taken out if the civil penalties do not get the problem resolved. This action would amend the penalty provisions of Chapter 15 of the Code of Ordinances related to solid waste management. Also, this ordinance will allow the Public Works Director to designate persons in the Public Works Department, who have had proper training, to enforce this ordinance along with the environmental control officer.

Councilman McClure moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman Swicegood and carried unanimously.

CITY POLICY REGARDING LEGAL CLAIMS AGAINST EMPLOYEES

City Attorney Slawter said that on November 29, 1979, the City Council adopted Resolution No. 79-253 establishing a policy relating to claims and judgments sought or against City officers and employees. The policy provides for defense of claims made against employees who are acting in the course of their employment and the payment of such claims unless the employee is the cause of the claim by some wrongful act and set forth in the resolution. That policy currently provides for full payment of any claim or judgment against the employee.

This policy has recently been reviewed in connection with the City's current program of self-insurance. It is recommended that the policy be amended so as to limit the amount that would be paid on behalf of any employee to the amount that any claimant could realistically expect to obtain from the employee himself.

Councilman Swicegood moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

PRIVATIZATION

Mr. John Miall, Director of Risk Management, said that the review to date of the service level and efficiency of the Health Services function has shown that it's operation represents a significant cost savings to the City. It is estimated that privatization could result in additional savings of as much as $40,000 annually.

A Request for Proposal needs to be prepared and sent out to the local medical community. Preparation of this RFP and evaluating responses to it will require a level of expertise and knowledge of medical services not available to City staff or the City Operations Advisory Commission. The Commission has reviewed both the scope of this project and the consultant recommended by staff and have concurred in the recommendation to ask the City Manager to sign an agreement with Mike McManus for a total project cost not to exceed $15,000.

The scope of the project will include development of a Request for Proposal on behalf of the City, distribution to the local medical community, evaluation of responses from the local medical community, negotiations with service providers on behalf of the City of Asheville,

preparation of a contract document for services, and a follow-up evaluation of the program after it is in place. This project would begin immediately and conclude on or before September 1, 1995.

Councilman Swicegood moved to have the City Manager proceed with this project. This motion was seconded by Councilwoman Field and carried unanimously.

JOINT COOPERATION AGREEMENT WITH THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Mr. Marvin Vierra said that the City entered into a Joint Cooperation Agreement with 12 governmental units within Region B and formed the Asheville Regional Housing Consortium on March 31, 1992. The agreement states in Section 16 that "the Lead Entity and the Cooperating Units agree the remain in the Consortium at least through March 31, 1995. Thereafter, each party shall continue to participate in the Consortium to the extent required by HUD regulations and other applicable law."

The City received a letter from HUD dated April 17, 1995, stating that a new Cooperation Agreement and authorizing resolutions must be submitted to HUD by June 30 to continue to receive an annual formula allocation as required in HUD Notice CPD 95-02.

Since formation of the Consortium in 1992 the region has received formula allocations totally $2,696,837. The City of Asheville has received an allocation of $657,904 for its affordable housing program and administrative cost as Lead Entity since inception of the program.

Councilwoman Sitnick moved to proceed with the appropriate action at the Council's next formal meeting. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

CONSENT:

Intent to Close a Portion of Water Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close a portion of Water Street.

Intent to Close Alley off Elizabeth Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley off Elizabeth Street.

Intent to Close Alley between Euclid Boulevard and Riverside Drive

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley between Euclid Boulevard and Riverside Drive.

Intent to Close Alley off Annie Street, portion of Westwood Place between Hazel Mill Road and its Dead-end and portion of Toxaway Extension between Hazel Mill Road and Toxaway Street

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close an alley off Annie Street, portion of Westwood Place between Hazel Mill Road and its dead-end and portion of Toxaway Extension between Hazel Mill Road and Toxaway Street

Intent to Close a portion of Dell Street, an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Court and a portion of Russell Avenue

Summary: This resolution will set a public hearing for June 27, 1995, to consider a resolution to close a portion of Dell Street, an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Court and a portion of Russell Avenue.

Amboy Road Riverfront Park

Summary: The Parks and Recreation Department is seeking authorization to proceed with the planning and design process for the Amboy Road River Park, part of the French Broad River Greenway. This would include obtaining a grant and entering into a lease agreement with the North Carolina Wildlife Resources Commission to start the design and development of the park through the services of a consultant.

Staff from the City of Asheville Parks and Recreation Department and RiverLink have met with the North Carolina Wildlife Resources Commission for over a year to develop the next major phase of the French Broad River Park which includes such features as a boat launch, fishing sites, and a parking lot in accordance with local, state, and federal regulations. The land along Amboy Road which is owned by the city is an ideal site to consider for this unique facility since the charette team found it a potentially attractive and functional location. A boat launch especially along a river bank provides a rare and innovative opportunity for recreation users and research.

The NCWRC would like to enter into an agreement with the City of Asheville which would provide to the City up to $20,000 to hire a consultant to develop a site design, contract plans and specifications for construction, and opinion of probable cost for the project. Thereafter the NCWRC plans to fund (which would probably not exceed $100,000) the construction of the site design. The NCWRC would maintain all of the major features after construction.

In order to start this process the NCWRC requires a lease agreement with the City to access the site and work with them and a consultant to develop a mutually satisfying design for the park which is sensitive to the greenway master plan. Authorizing these agreements would initiate the NCWRC $20,000 grant to the city for consultants. The only expenditures on the City of Asheville's behalf during this project would be staff time working with the NCWRC and consultants to plan and design the park, additional site maintenance for trash pick-up, and a more frequent mowing schedule.

The development of future phases of this project to establish trails, boardwalks, landscaping and other features are also being investigated and other grant funding is available.

ENDORSE CONTRIBUTION TO SUPPORT RECYCLING COOPERATIVE GRANT PROPOSAL

Summary: Buncombe County has submitted a grant proposal to the North Carolina Office of Waste Reduction to develop a public/private recycling processing and marketing cooperative project for blue bags and other materials in the community. The County is asking the City of Asheville to provide a token match of $500 for this $30,000 request, if the grant is approved. Appropriation would only be necessary if the grant is awarded.

Councilman McClure moved to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting. This motion was seconded by Councilwoman Field and carried unanimously.

OTHER ITEMS

Appointment of Althea Goode to the Asheville Transit Authority

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal meeting to appoint Althea Goode to the Asheville Transit Authority to fill the unexpired term of Myra Grant, term to expire December 31, 1997, or until her successor has been appointed and qualified. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Civil Service Board Vacancy

City Council instructed City Clerk Burleson to arrange for an interview of Nancy Kauffman for a vacancy on the Civil Service Board. The interview of Johnny Lloyd for this vacancy has already been set up.

Day Care Centers

At the request of Vice-Mayor Peterson, Fire Chief John Rukavina updated the Council on the issue of State Building Code enforcement at day care centers and the City's role in the state regulatory process.

Closed Session

At 5:40 p.m. Councilman McClure moved to go into closed session to discuss an matter related to real estate. This motion was seconded by Councilwoman Field and carried unanimously.

At 6:15 p.m. Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:15 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - May 23, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin welcoming Councilman Watts back after his knee surgeries. He then gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-73 - RESOLUTION TO RETIRING EMPLOYEE PAT COOK

City Manager Westbrook read the resolution stating that Pat Cook has been an employee for 19-1/2 years and has requested retirement from her position as Police Officer Senior in the Asheville Police Department. He expressed City Council's appreciation to Pat for her service to the City of Asheville and its citizens.

Councilman Watts, a former Sergeant with the Police Department, stated that Pat is a very dedicated and outstanding officer.

Resolution No. 95-73 was adopted by acclamation.

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B. PROCLAMATION PROCLAIMING THE WEEK OF MAY 21-27, 1995, AS "ARSON AWARENESS WEEK"

Mayor Martin proclaimed the week of May 21-27, 1995, as "Arson Awareness Week" in the City of Asheville and presented it Fire Chief John Rukavina, Mr. Harley Shuford, Fire Investigator and Director of the Asheville-Buncombe Arson Task Force, and Mr. Buddy Thompson, Buncombe County Fire Investigator.

C. PROCLAMATION PROCLAIMING SATURDAY, MAY 27, 1995, AS "YOUTH UNITY DAY"

Mayor Martin proclaimed Saturday, May 27, 1995, as "Youth Unity Day" in the City of Asheville and presented it to Ms. Oralene Simmons. Ms. Simmons briefed the Council on the activities taking place during the week.

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL

Mayor Martin said that this public hearing was opened on December 6, 1994, continued until March 21, 1995, and then continued until this date in order to give staff sufficient time to work with the community to address the Head of Montford Redevelopment Plan in general.

Mayor Martin announced that a petition has been received in the City Clerk's office on May 23, 1995, containing 173 signatures, which states "We, the undersigned, are opposed to the recommendations of the Head of Montford Steering Committee, as voted on April 6, 1995. Specifically, we oppose any more commercial zoning than what presently exists at the head of Montford. We also oppose the proposed Office Institutional (OI) zoning along Hill Street. Such zoning would be very destructive to the character of the Montford community and would adversely affect the quality of life in the neighborhood."

Ms. Julia Cogburn, Planning Director, said that the Steering Committee appointed by Council has finished the majority of its work. However, some work still remains to be done regarding the recommended zoning for this area and Council has asked that the Committee look once more at this issue. A Steering Committee meeting has been scheduled fur June 5.

Three community meetings and two Steering Committee meetings have been held concerning the plan. It is now proposed that a recommendation on the rezoning and an amendment to the plan will be ready for Council at their July 25th meeting.

Planning staff recommends that Council continue the public hearing until July 25, 1995, at 5:00 p.m.

Mr. Albert Sneed, attorney representing Ms. Shirley Dozier, urged Council to vote on this matter today and not to continue the matter any longer. The highest and best use of the property is not R-3 Residential District. He said that Ms. Dozier has agreed to amend her request to put in a one foot strip of R-3 along Short Street.

Upon inquiry of Councilman Swicegood, Mr. Gerald Green, Senior Planner and resident of 150 Cumberland Avenue in Montford, said that he has not been involved in this rezoning request. He has gone to the community meetings and as City staff has taken notes and has done some presentations; however, Mike Matteson, Urban Planner, is the staff person working on this rezoning request.

Councilwoman Sitnick said that one of the reasons for sending this back was to look at two distinct issues. One is multi-faceted and that's the whole Head of Montford Redevelopment Plan. The other was the Dozier's request. She said that this Council feels strongly about the fact that Asheville is still small enough that we feel whether you live in East Asheville, Central Asheville or North Asheville - this is all one neighborhood. And, while someone might live in one place, have a business in another area or you might have a child in another area - we are cross-connected and inter-connected and we are concerned about the whole City. She also said that in response to the comment about should we listen to people who live ten blocks away, she felt we should - for the very reason she just stated. It's her understanding that there are three or four individuals who don't even live in the City. The idea is to have all of the voices as part of the dialog. That was the whole point of setting up the committee initially. She personally feels committed to making sure that everybody's voice is heard and that everybody feels that they are valid before this Council.

Ms. Myra Fuller, representative of the Montford Community Club and resident at 162 Cumberland Avenue, read a prepared statement urging Council to recognize the invaluable contribution that this historic urban neighborhood makes to the City and take action to preserve and protect it's future. She said, among other things, that the Montford

community is dedicated to preserving itself as a residential community and to maintaining its diversity of residents which makes it a unique and viable community. Permitting commercial uses at the Head of Montford that are not low impact and neighborhood oriented would set a precedent for commercial intrusion down Montford Avenue. The Montford community is resolved to remain a strong residential neighborhood that it will fight incompatible commercial development.

Upon inquiry of Vice-Mayor Peterson, Ms. Fuller stated that they are not totally opposed to commercial development, only incompatible commercial development.

Councilwoman Sitnick asked if City staff knew what the combined property values and tax base contribution is from each individual residential unit in the City. There is value in residential property as there is in commercial property. The City is always looking to increase it's tax base and one way is not to devalue personal properties. She said that this needs to be looked at with balance - historic value, neighborhood intrusion, the further ghettoizing of Montford, and the millions of dollars of CDBG money that the City put in Montford for the very purpose of preserving our housing stock. This is all important to improve and maintain our economy as well - it's not just making every major thoroughfare a commercial thoroughfare.

Ms. Valerie Larrea, resident at 46 Cumberland Circle, asked Council to weigh the issues of what makes easy money vs. what preserves neighborhoods and heritage and what ultimately makes people come to visit and make Asheville their home.

Ms. Shirley Dozier, petitioner requesting the rezoning, explained why she wanted to have her property rezoned commercial. the Head of Montford Redevelopment Plan shows that this property should have some kind of commercial activity in it and since this plan had input from the neighborhood at that time, the neighborhood should not object to the commercial zoning.

Vice-Mayor Peterson stated that he has received a letter from Ms. Dozier expressing concerns over the make-up of the Steering Committee.

Mr. Michael McDonough, member of the Steering Committee, stated that they are a lot of people that are not opposed to all commercial development, they are just opposed to the Commercial General designation and opposed to the way it's being done. Perhaps if a different zoning classification, like Neighborhood Commercial was being requested, the petitioner might get a different response from the community. He felt Council should approach this rezoning request in a more comprehensive manner.

Councilman Swicegood moved to continue this public hearing, without further advertisement, until July 25, 1995, at 5:00 p.m. This motion was seconded by Vice-Mayor Peterson.

Vice-Mayor Peterson felt that if some of the Steering Committee members had their own personal agendas, the Committee would not be able to function as the City Council intended and thus nothing would be accomplished.

The motion made earlier to continue this public hearing until July 25, 1995, carried unanimously.

Mr. Bill Coolidge, resident in the Montford area, hoped that the Steering Committee would meet with members of the Montford community at least once before they finalize their recommendations.

At the request of Vice-Mayor Peterson, City Manager Westbrook was instructed to have a staff report prepared for the next Council worksession which shall include, but not be limited to, what issues the Steering Committee voted on, what the counts were on each vote, who voted for what (not necessarily by name), what the vote count was for the final meeting, a list of the Committee members and if they live in that neighborhood, and if not, what organization they represent, etc.

Vice-Mayor Peterson also urged the Steering Committee meet with the neighborhood to bring them up-to-date.

Upon inquiry of Councilman Watts, Ms. Dozier said that she was not comfortable with the make-up of the Steering Committee.

Councilwoman Sitnick said that in order to avoid this problem in the future, she has asked the City Manager to draft some procedural guidelines relative to the way the Council not only appoints people to committees, but also how the resignation process should occur. Some points to be addressed would be (1) are we going to appoint only residents to ad hoc and citizen advisory committees who live in the areas that are under question?; (2) are we going to appoint people who don't live in the City (as we did when we appointed four members to the UDO Steering Committee)?; (3) how the appointments are made; (4) who should they appoint; (5) should members of boards and committees also serve on citizen committees; and (6) a formal resignation process when a citizen is removed by either Council or requests to be removed on their own. If we have a policy that this Council agrees to, we can avoid at least 30% of the discussion that has occurred over this particular committee.
This will be a very positive step for the City.

Councilman Swicegood agreed that a policy needed to be developed that spells out exactly how committee members are taken off committees.

B. PUBLIC HEARING RELATIVE AMENDING THE ZONING ORDINANCE TO ALLOW TAXI STANDS IN THE COMMERCIAL HIGHWAY DISTRICT (CH) AND THE CENTRAL BUSINESS DISTRICT (CBD)

ORDINANCE NO. 2215 - AN ORDINANCE AMENDING THE ZONING ORDINANCE TO ALLOW TAXI STANDS IN THE COMMERCIAL HIGHWAY DISTRICT AND THE CENTRAL BUSINESS DISTRICT

Mayor Martin opened the public hearing at 6:09 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Senior Planner Gerald Green explained that the proposed zoning ordinance amendment identifying taxi stands as a permitted use in the CBD and CH Districts and defining taxi stands was recommended for approval by the Planning & Zoning Commission ("Commission") at their May 3, 1995, meeting. The proposed use was considered to be compatible with the purpose of these two districts and with the other uses permitted in them. Taxi stands are currently permitted in the Commercial Service District and the Commission felt that permitting this use in the CH and CBD Districts would be an appropriate revision to permit more

flexibility in the City's ordinance. The Commission felt the addition of a definition of taxi stands to the zoning ordinance would reduce confusion determining what is a taxi stand.

When Councilwoman Sitnick asked how many parking spaces those taxi stands will displace, especially because parking is limited in the Central Business District, Mr. Green responded that the spaces would be private property owned by the taxi company. Unless they reach some lease agreement with the City for City-owned parking spaces, they would not be allowed to take a space off the street and use those spaces for taxi stands. This is only intended to address private property which is owned by the taxi company and used as a place for their employees to park while they wait for a call for service.

Upon inquiry of Mayor Martin, Mr. Green doesn't foresee any great deal of interest in doing this.

Mayor Martin closed the public hearing at 6:15 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved for the adoption of Ordinance No. 2215. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2215 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 91

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. ORDINANCE NO. 2216 - AN ORDINANCE AMENDING CHAPTER 3 (ANIMALS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Police Chief Will Annarino said that on October 11, 1994, the Buncombe County Board of Commissioners adopted and enacted a comprehensive animal control ordinance. The comprehensive ordinance provides, among other things, for the termination of an owner's rights to his/her animal under certain circumstances, mandatory confinement of dogs or cats that bite human beings, euthanasia of an animal under certain circumstances, specific requirements that animal owners provide humane care for their animals and authorization to impose certain additional protective and preventive measures against animal owners so as to minimize the risk such animals may pose to the public.

Members of City Council expressed an interest in the City amending its animal control ordinance so as to be identical or comparable to Buncombe County's ordinance. While this ordinance is not identical, it is comparable. The comparability and significant amendments are as follows:

1. The owner is provided with specific guidelines regarding the confinement and care of their animals and a failure to abide by those standards may result in the animal control officer seizing the animal or the animal being euthanized.

2. An appeal appeals board consisting entirely of City staff.

3. Addition of a civil penalty for the owner's failure to install protective and preventive measures for confinement of dogs when requested to do so by the animal control officer.

4. Clearly defined duties and responsibilities for animal control officers, including a requirement that they canvas the City to ascertain that dogs and cats are currently inoculated for rabies; investigation of reported animal bites by rabid animals and issuance of permits to keep more than six animals per lot.

Certain significant items included in Buncombe County's ordinance that are not in the City's draft ordinance are as follows:

1. An escalating civil penalty for violation of the County's ordinance ranging from $50 to $500 depending upon whether it is a first offense, second offense or third offense, etc.

2. A policy of the County that provides for, among other things, the issuance of a criminal summons if civil penalties are not paid.

3. A provision that makes it unlawful to fail to have a dog or cat vaccinated for rabies.

4. Immediate destruction of wounded or diseased animals that re suffering.

5. No additional staff or operational costs are anticipated.

Councilwoman Sitnick was pleased to see that the ordinance is being strengthened and suggested Chief Annarino report back to Council at a later date to see if the amendments have helped his enforcement capabilities. Police Chief Annarino felt comfortable that this amendment would help, especially in the civil area.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2216. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2216 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 94

Councilman Swicegood asked the City Attorney for a report about the penalties the City can impose relative to violations of the noise ordinance.

B. ORDINANCE NO. 2217 - AN ORDINANCE AMENDING THE PENALTY PROVISIONS OF CHAPTER 15 OF THE CODE OF ORDINANCES RELATED TO SOLID WASTE MANAGEMENT

City Attorney Slawter said that the City's solid waste ordinance, which includes provides for enforcement of littering, currently provides for enforcement only by prosecution as a misdemeanor for any violation. Pursuant to a long-standing agreement with the County, this City ordinance is enforced within the City by an environmental control

officer who is paid by the County. The person currently in that position is Rick Ramsey. Mr. Ramsey feels that the best means of enforcement of the ordinance would be through a method of civil penalties, with a misdemeanor warrant to then be taken out if the civil penalties do not get the problem resolved. This action would amend the penalty provisions of Chapter 15 of the Code of Ordinances related to solid waste management. Also, this ordinance will allow the Public Works Director to designate persons in the Public Works Department, who have had proper training, to enforce this ordinance along with the environmental control officer.

Councilwoman Field said that she supported this amendment and commented that as a member on the County's Solid Waste Committee she has found out that in the City of Asheville the majority of littering problems are vacant lots that are trashed, whereas, in the County, the majority of the problems are illegal dumping.

Mr. Julian Price, resident in the downtown area, suggested that trash in the downtown area be collected on Monday mornings and emptied on Fridays too.

Ms. Laura Gordon expressed her concern over the Sanitation Division workers being allowed to issue citations from a safety issue.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2217. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2217 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 111

Councilman Swicegood moved to instruct the City Manager to use some of the youth hired under the City's Summer Youth Program to pick up litter. He said that keeping Asheville clean was a high priority at the Council's retreat in January and felt it would be good to use some of the summer youth for this project. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick said that picking up trash is the end product of a problem. She felt that in conjunction with this, we should try and abate the problem from occurring altogether. She said the City had a program about six years ago called "People Who Litter Are Trash". She feels like some program, in conjunction with the Adopt a Street Program which she has been trying to get started, needs to have an education process that stops people from littering. While she thinks that Councilman Swicegood's idea to use summer youth to pick up litter, is a good one, the Council needs to think about (1) the City's liability where the kids are concerned; (2) kids in the streets and whether they are endangered; and (3) kids picking up not only paper trash, but needles, condoms, etc. She also said that there is a policy in the Police Department regarding kids who are truant and/or suspended from school. They are taken home and dropped off. She would like to see those young people striving for this kind of community service program as well. If it's not possible to use the City's summer youth, perhaps those young people can help us with this problem. This is a multi-faceted issue and we need to look at all of these things. We should also call the N.C. Department of Transportation and ask them to start cleaning up the State roads.

Mayor Martin said that he introduced the program entitled "People Who Litter Are Trash" in 1988 when he was on City Council. He was able to get the City and the County to come up with $10,000 each to fund it. It was done in conjunction through Quality Forward who still has an education program.

V. CONSENT:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 9, 1995, AND THE WORKSESSION HELD ON MAY 16, 1995

B. MOTION SETTING A PUBLIC HEARING ON JUNE 27, 1995, RELATIVE TO ADOPTION OF THE 1995-96 ANNUAL OPERATING BUDGET

C. RESOLUTION NO. 95-74- RESOLUTION OF INTENT TO CLOSE A PORTION OF WATER STREET AND CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995

RESOLUTION BOOK NO. 22 - PAGE 272

D. RESOLUTION NO. 95-75 - RESOLUTION OF INTENT TO CLOSE AN UNOPENED ALLEY OFF ELIZABETH STREET AND CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995

RESOLUTION BOOK NO. 22 - PAGE 273

E. RESOLUTION NO. 95-76 - RESOLUTION OF INTENT TO CLOSE A PORTION OF AN ALLEY BETWEEN EUCLID BOULEVARD AND RIVERSIDE DRIVE AND CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995

RESOLUTION BOOK NO. 22 - PAGE 274

F. RESOLUTION NO. 95-77 - RESOLUTION OF INTENT TO CLOSE AN UNOPENED ALLEY OFF ANNIE STREET, A PORTION OF WESTWOOD PLACE BETWEEN HAZEL MILL ROAD AND ITS DEAD-END, AND A PORTION OF TOXAWAY EXTENSION BETWEEN HAZEL MILL ROAD AND TOXAWAY STREET AND CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995

RESOLUTION BOOK NO. 22 - PAGE 275

G. RESOLUTION NO. 95-78 - RESOLUTION OF INTENT TO CLOSE A PORTION OF DELL STREET, AN UNNAMED ALLEY OFF OF DELL STREET, A PORTION OF DAVENPORT ROAD, A PORTION OF VERMONT CIRCLE, AND A PORTION OF RUSSELL AVENUE AND CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995

RESOLUTION BOOK NO. 22 - PAGE 276

H. MOTION SETTING A PUBLIC HEARING ON JUNE 27, 1995, TO REZONE 2 HERMAN STREET, 149 LIVINGSTON STREET AND 133 LIVINGSTON STREET FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

I. RESOLUTION NO. 95-79 - RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF ASHEVILLE TO ENTER INTO A JOINT COOPERATION AGREEMENT WITH THE ASHEVILLE REGIONAL HOUSING CONSORTIUM

Summary: HUD regulations require execution of a new Cooperation Agreement for the Asheville Regional Housing Consortium to continue receiving formula allocations under the HOME grant program. The City of Asheville serves as Lead Entity for the Consortium.

RESOLUTION BOOK NO. 22 - PAGE 278

J. **RESOLUTION NO. 95-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA WILDLIFE RESOURCES COMMISSION TO BEGIN DESIGN AND DEVELOPMENT OF A BOAT LAUNCH AND FISHING ACCESS ALONG AMBOY ROAD AND ANY OTHER AGREEMENTS FOR CONSTRUCTION**

Summary: The Parks and Recreation Department is seeking authorization to proceed with the planning and design process for the Amboy Road River Park, part of the French Broad River Greenway. This would include obtaining a grant and entering into a lease agreement with the N.C. Wildlife Resources Commission to start the design and development of the park through the services of a consultant.

RESOLUTION BOOK NO. 22 - PAGE 279

K. **RESOLUTION NO. 95-81 - RESOLUTION AMENDING THE POLICY RELATING TO CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST CITY OFFICERS AND EMPLOYEES**

Summary: On November 29, 1979, the City Council adopted Resolution No. 79-253 establishing a policy relating to claims and judgments sought or against City officers and employees. The policy provides for defense of claims made against employees who are acting in the course of their employment and the payment of such claims unless the employee is the cause of the claim by some wrongful act and set forth in the resolution. That policy currently provides for full payment of any claim or judgment against the employee.

This policy has recently been reviewed in connection with the City's current program of self-insurance. It is recommended that the policy be amended so as to limit the amount that would be paid on behalf of any employee to the amount that any claimant could realistically expect to obtain from the employee himself.

RESOLUTION BOOK NO. 22 - PAGE 280

L. **RESOLUTION NO. 95-82 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE TRANSIT AUTHORITY**

Summary: This resolution will appoint Ms. Althea Goode to serve the unexpired term of Myra Grant, as a member on the Asheville Transit Authority. Ms. Goode's term will expire on December 31, 1997, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 282

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VI. OTHER BUSINESS:

A. **REAPPOINTMENT OF PEGGY COOK TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE**

Mayor Martin announced his reappointment of Ms. Peggy Cook to the Housing Authority of the City of Asheville. Ms. Cook's term is for five years, term to expire June 11, 2000, or until her successor has been appointed and qualified.

B. LETTER FROM LANDMARK MANAGEMENT RE: PACK PLAZA

Councilman McClure read a letter from L. Ted Prosser, President of Landmark Management Inc., dated May 18, 1995, addressed to all Pack Plaza Tenants. The letter reads:

"A number of you have made inquiries of me prompted by an article which appeared in the Asheville Citizen Times with respect to the prospective foreclosure by Bank of Scotland of its first mortgage on Pack Plaza. Without commenting on a line-by-line basis on the 'facts' set forth in the article, I would like to bring the following to your attention as tenants of Pack Plaza:

- A subsidiary of the Bank of Scotland acquired Pack Plaza in July 1994.
- The necessity for the foreclosure action was the refusal by the City of Asheville to release voluntarily its lien on Pack Plaza notwithstanding the fact that its lien is worthless, given the value of Pack Plaza as evidenced by the City's own books and records. In other words, if the City had agreed to release its lien, there would have been no foreclosure and no additional legal or other costs incurred.
- No tenant will be terminated on account of the foreclosure action.
- Since a subsidiary of the Bank of Scotland already owns Pack Plaza, a foreclosure sale to Bank of Scotland will not result in any changes relating to your tenancy or the day-to-day operations of Pack Plaza.

The foreclosure action will thus be a non-event for you. If you require any additional information with respect to the foregoing, please do not hesitate to call me at 252-5130."

Upon inquiry by Councilman McClure about the City's liens, City Attorney Slawter said all three City deeds of trust are valid liens against the project.

C. RALPH BISHOP

Mr. Ralph Bishop, resident of the City of Asheville, addressed Council about his inability to obtain City records, in particular certified City Council minutes. He felt State law entitled him to those minutes and City Council had no authority to supersede that law by adopting its own rules.

D. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of May 4-10, 1995: Dave C. Tomlin (Street), Robert L. Huntley (Water), Marilyn Muccio (Parks & Recreation), Sharon Crisp (Civic Center).

He said the following claims have been received by the City during the week of May 11-17, 1995: John Patterson (Civic Center), Juanita Wilkerson (Parks & Recreation), Toby C. Cole (Water) and Bell South Tele. (Streets).

He said that these claims would be referred to the appropriate insurers for investigation.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - June 6, 1995 - 2:00 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (arrived at 2:15 p.m.), Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 2:33 p.m.) and Councilman Herbert J. Watts (arrived at 2:15 p.m.); City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

HOLOCAUST MEMORIAL SERVICE

Reverend Ralph Sexton asked City Council to designate Thursday, June 15, 1995, at 7:00 p.m. as the Holocaust Memorial Service at Trinity Baptist Church. He stated that the world renowned violinist Shony Alex Braun will be present.

Councilwoman Sitnick, as well as the entire City Council, thanked Reverend Sexton for his continuing efforts in Oklahoma City.

Mayor Martin instructed the City Clerk to place this item on the next formal meeting agenda.

MEETING WITH THE CHAMBER OF COMMERCE REGARDING THE VISIONING PROCESS

Mr. Henry Luke made a presentation to the City Council relative to the visioning process and how it may work for Asheville and Buncombe County.

Mr. Luke answered various questions from Council as they related to the tentative schedule, the activities to take place, the number of people on various committees, how he envisioned reaching consensus with the groups, the need for the long-range planning, the number of public hearings, the media advertising, the need for commitment, etc.

The funding for the project is on a shared participation basis with $10,000 from Buncombe County, $10,000 from the business community, $5,000 from the Community Foundation, and $5,000 from the City of Asheville.

Vice-Mayor Peterson felt that this request should go through the Council committee set up for funding outside agency requests.

Councilwoman Field moved to proceed with appropriate action at the next formal Council meeting to appropriate $5,000 to move forward with the visioning process. This motion was seconded by Councilman Watts and carried unanimously.

OUTSIDE AGENCY FUNDING

Mr. Bob Wurst, Audit/Budget Director, outlined the various funding options for the outside agencies. He noted that the Council's committee on outside agency funding met with the Chamber of Commerce, the Community Arts Council and RiverLink individually. He then went over each agency's request and the amount recommended by staff.

Councilman McClure noted that he still has not received the information from the Transit Authority relative to the percentage of ridership vs. 100% capacity. The City Manager assured Councilman McClure that he would have that information to him.

Councilman Swicegood expressed concern over the amount of money recommended for the Community Arts Council since part of the funding for this year came from the Festivals Fund.

Mr. Vaughn Ownbey, Executive Director of the Buncombe County Drug Commission, answered questions from Council as they related to the services offered by the Drug Commission.

Vice-Mayor Peterson asked for specific information regarding the Community Loan Fund allocation and the program's effectiveness. Councilman McClure said that the program has been successful and he had the information requested and would furnish it to Council.

Vice-Mayor Peterson also asked for information on how much Buncombe County is contributing, if any, to these outside agencies.

Councilman McClure suggested, and it was the consensus of Council, that the City Council develop a policy for outside agency requests to be grants rather than annual on-going budgets.

Councilman Swicegood said that all the outside agencies were good projects but if for some reason the requests were cut, he would like to see the money dedicated for street and sidewalk work.

It was the consensus of Council for the Council's committee on outside agency funding meet again to formalize their recommendations.

HAYWOOD ROAD CORRIDOR PROJECT

Mr. Tommy Sellers presented City Council with a list of priorities as set by the West Asheville community for Haywood Road on May 18, 1995.

He asked City Council to fund $7,000 for Christmas decorations to be placed on Haywood Street. For the past two years, Haywood Road has had no decorations since the earlier ones which are now too dilapidated to use. He said the $7,000 would be used to buy as many wreaths and brackets as possible.

Councilwoman Field said that given the length of Haywood Road and the number of decorations that would be needed, the program may take several years to complete.

Mr. Sellers answered questions about building facades on Haywood Road and how the work will be overseen by the Preservation Society. He stated that the work is not being done for an historic district designation.

Ms. Julia Cogburn, Planning Director, answered questions from Councilman Swicegood as they related to residences located above the stores on Haywood Road. She suggested perhaps a wording amendment might be necessary to address the upper story residences.

Vice-Mayor Peterson suggested that this $7,000 request be reviewed by the Council's committee on outside agency funding.

Councilwoman Sitnick commended Mr. Sellers for working the West Asheville community so well to develop the priority list which many items do not need money to be accomplished.

Councilwoman Sitnick moved to adjust the 1995-96 budget to appropriate $7,000 for Christmas decorations in West Asheville. This motion was seconded by Councilwoman Field and carried unanimously.

UPDATE ON THE MONTFORD STEERING COMMITTEE REPORT

Ms. Julia Cogburn, Planning Director, gave Council on update on the progress of the reevaluation of the Head of Montford Redevelopment Plan. She briefed Council on the committee meetings that have taken place.

She highlighted some of the following recommendations from the Committee: (1) no more CD funds used for additional street and sidewalk work, (2) the property along Short Street be developed as a small park for this area, and (3) the remainder of the CD funds for the Head of Montford be spent for low and moderate income housing - in particular on the west side of Montford including the area known as "stumptown."

At the request of Council, she stated that the two controversial issues before the Committee are (1) the rezoning of the Dozier property (recommended Commercial General zoning for the west side of Montford Avenue including the Dozier property up to Pisgah Legal Services with the exception of a strip along Short Street which would be zoned R-3 - motion on April 6, 1995, passed on a 7-6 vote) and (2) the zoning for the Peddler property (recommended Office Institutional zoning for the Peddler property, north to the ravine and the area to the west including Isaac Dickson School - motion on April 6, 1995, passed on a 8-5 vote).

RFP APPROVAL REGARDING SALE OF CERTAIN CITY PROPERTIES

Ms. Patty Joyce, Senior Planner, said that in response to the desire of the City Council to develop a "short list" of available City-owned property for immediate sale or lease and to prepare a strategy for the advertising and transfer of City property using staff resources and/or a real estate firm, staff proposes the following steps to be accomplished according to the schedule below:

Steps	Completion Date
Propose strategy for sale of City property; City team approach and/or real estate firm. Identify short list of properties to sell first.	June 6
Advertise and distribute Request for Proposals (RFP) to Real Estate firms. Investigate and complete "field" reports on remaining 96 properties owned by the City and selected "tax lots".	June 14
Present returned RFP's to City Council	July 5
Select Real Estate firm(s) and begin contract negotiations	July 28

She said staff recommends that Council authorize the advertisement of the RFP to sell City properties. Appraisals of some properties will be part of the contract with the real estate firms and may require the payment of appraisal fees up front. Selection of the firm is expected to be completed by July 28, 1995. The sale of certain properties near the Asheville Regional Airport will be handled outside of this agreement by the City Attorney's Office. All other properties will be sold under contract with a real estate firm(s).

She then passed out to Council the "short list" containing 35 properties (three of which are City-owned property at the Airport which, if sold, will be handled by the City Attorney's Office).

City Manager Westbrook reminded the Council that the first $350,000 realized from the sale of Airport property has been appropriated for the renovation of Stephens-Lee Recreation Center.

Councilman Swicegood suggested a meeting with the Airport Authority to see what their future needs might be with regard to the City-owned Airport property. He felt the City should not sell any of the property out at the Airport or lease it.

Councilwoman Sitnick suggested selling or donating some small remnants to neighborhoods for parks or greenspace, donating lots to Magic Community Gardens to grow food earmarked for low income residents, or perhaps sell some of the lots for $1 to non-profit agencies. Ms. Joyce said that once those type lots are identified we can move in that direction.

Councilman Swicegood suggested some of the Richmond Hill property be retained for park use, perhaps 60-100 acres. City Manager Westbrook felt that perhaps whoever bought the 170 acres would donate a portion of it back to the City for a park.

Vice-Mayor Peterson felt that north Asheville still needed a park. He suggested not selling the Richmond Hill property but present it to the Recreation Advisory Board for their suggestion of possible ballfield or soccer fields.

Councilwoman Sitnick felt that perhaps the City shouldn't sell all our available property. She didn't want to see any builders come into Asheville, buy up all Asheville's prime land and develop the land over what Asheville's needs are.

Mayor Martin agreed with Councilwoman Sitnick by saying that all local developers will have the opportunity to participate in any land sales.

Councilwoman Sitnick wondered if a public meeting should be held to find out from the public how the City should use their available land.

Councilman Swicegood felt the City should begin getting appraisals on the top three pieces of property - 31 Haywood Street, the Richmond Hill property and the property on Asheland Avenue.

Councilwoman Field said that there might be several pieces of property on the list that might be good for residential development in addition to the Richmond Hill property. She was torn between holding it for a possible residential development with a park and selling it, which would bring in some money to the City. She was against selling 31 Haywood Street but didn't object to the City leasing the building. Since she felt the City needed to go slow in selling off their property, she didn't want to make any commitments to sell until she had an opportunity to look at the location of each piece of available property.

Councilman McClure said that when we chose an appraiser for the properties, we need to tell them what the scope of their appraisal needs to be.

Councilwoman Sitnick said that as we start out in this new process of getting appraisals and sending out RFP's to real estate firms, the Council must pay scrupulous attention to conflicts of interest and perceptions of conflicts of interest.

Mayor Martin also felt that 31 Haywood Street should not be sold.

Vice-Mayor Peterson moved to begin the process of obtaining appraisals on 31 Haywood Street, the Richmond Hill property and the Asheland Avenue property and for staff to begin developing an RFP on the remainder of the "short list". This motion was seconded by Councilman Swicegood.

City Attorney Slawter stated that all sales are subject to the statutes governing the sale of City-owned property. He noted that there is ample opportunity for upset bids.

Upon inquiry of Councilwoman Sitnick about the cost of the appraisals on the three properties, Councilman McClure said the cost would be approximately $10,000. Ms. Joyce said that once the appraisal figure is known, she would have to come back to the Council for a budget appropriation.

It was the consensus of Council to have City staff pick the appraisal firm, come back to the Council with a budget amendment for those appraisals, and have the City Council pick the real estate firm after all the RFP's have been received.

Councilwoman Sitnick asked the City Manager to confirm the correct cost of the land at 31 Haywood Street. One document she has reads $219,183 and another document reads $151,600.

Councilman McClure suggested staff contact some commercial banks and they would give them a list of all their qualified appraisals in Asheville.

MASSAGE PARLOR ORDINANCE AMENDMENT

Ms. Deborah Crowder, Revenue Manager, said that the City's current massage parlors and health studios ordinance requires all requests for a privilege license to operate as a massage therapist to be approved by City Council before the Finance Director can issue same. Additionally, the current ordinance prohibits massage therapists from treating members of the opposite sex.

Recently there have been a number of requests from massage therapists for a privilege license. In December of 1994 City Council asked the City Manager to look into amending the current ordinance so as to exempt massage therapists from the provisions of the massage parlors and health studios ordinance or to include educational standards in the ordinance.

The attached ordinance amending the massage parlors and health studios section of the Code of Ordinances of the City of Asheville, sets forth specific educational standards that massage therapists must meet in order to be licensed as massage therapists in the City of Asheville. It also replaces the language, "massage parlors and health studios," with "massage therapy regulations." The amendment does not include the restriction prohibiting massage therapists from treating members of the opposite sex; however, it does prohibit the massage of private parts for hire. Massage therapists must continue to provide certain data to the

City of Asheville so that proper regulation of this profession can be maintained. A major new provision included in this amended ordinance provides for appointment, by the City Manager, of a three-member City staff Massage Therapy Appeals Board. That Board will hear various appeals. The Board's decision will be final and further appeal must be taken to the Buncombe County Superior Court. The City department responsible for gathering all of the necessary data in order to determine whether to issue a privilege license is the Finance Department. The City department responsible for enforcing the ordinance is the Police Department.

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal Council meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

CITY COUNCIL RULES OF PROCEDURE AMENDMENT

City Attorney Slawter said that following the May 2, 1995, City Council meeting, a question arose regarding public comment during City Council worksessions. The current Rules of Procedure do not distinguish between worksessions and formal meetings of the Council. He said that he has reviewed Sec. 9 of the City Charter and the City Council Rules of Procedure. Sec. 9 of the Charter provides that "all meetings of the Council shall be open to the public..." and then provides "...and the Council, by rules, must provide for giving citizens reasonable opportunity to be heard at its meetings in regard to matters thereunder consideration."

He said that it has always been the policy of the Council to give the public an opportunity to comment before taking a vote on matters under consideration. The issue seems to have arisen due to the new procedure that the Council is following, with a worksession at which a discussion of topics is held in order to get some sense of direction of how the Council wishes to proceed, and then formal consideration at a regular session of the Council. Before the Council takes a formal vote on any matter, therefore, the public always has an opportunity to comment. Some members of the public apparently read Sec. 9 of the Charter to require that the City Council receive public comment on each matter that the Council discusses, each time that the Council discusses the matter. So long as the Council allows public input prior to a formal vote on an issue, it would seem to him that the requirements of Sec. 9 have been met.

The current Rules of Procedure of the City Council were extensively revised on December 22, 1992, and one additional amendment was made on August 3, 1993. This draft provides for an amendment to Sec. 1 regarding the meeting time (change from 4:00 p.m. to 5:00 p.m., consistent with Council's recent change) and an amendment to Sec. 25 so as to reference "closed" sessions, consistent with Council's recent change), rather than "executive" sessions (consistent with the recent change in the Open Meetings Law). In addition, this would be a good time to make any amendment that the Council would like to make to Sec. 7 of the Rules of Procedure regarding public comment. The Council Rules have never specifically provided for public comment at worksessions. An amendment to Sec. 7 could specify the extent to which public comment would be allowed at worksessions.

Sec. 7 of the Council Rules currently provides that any group or person wishing to address the Council on any matter may do so at the conclusion of regularly scheduled business. Since no distinction is made in the Rules between worksessions and other meetings, this could be

read to apply to either type of meeting. In order to clarify matters, he recommended an amendment to Sec. 7 to provide specifically what is allowed at worksessions and specifically what is allowed at formal meetings. Since there appears to be some difference of opinion among Council members regarding the extent to which public input should be allowed at the worksessions, perhaps the following amendment to Sec. 7 would be acceptable:

1. Provide that at worksessions, public comment will be received on individual items for which the Council is concluding its consideration of the matter during that particular worksession. For other matters, which will be considered by the Council at a subsequent formal meeting, public comment will be received at the subsequent formal meeting.

2. Provide for public input at formal meetings on individual topics on the Council agenda prior to a vote on the matter, as is currently allowed, with the same time limitations.

3. Provide that at both worksessions and formal meetings, public comment will be received at the conclusion of regularly scheduled business, with the same time limitations as currently exist for presentations at formal meetings (ten minutes for the spokesperson for a group, three minutes for individuals).

4. Provide that the Mayor (or the Vice Mayor, in the absence of the Mayor) be authorized to allow such additional comments as may be deemed appropriate for the orderly conduct of business.

The Council has some flexibility in establishing rules for these proceedings, and the above suggestions are no more than suggestions. Some matters by law require a public hearing and may have specific formal requirements for the public hearing. Most matters that the Council considers do not require a public hearing. Even in instances where a public hearing is required, N. C. Gen. Stat. sec. 160A-81 authorizes the Council to adopt reasonable rules regarding the conduct of public hearings, including limiting the time allowed for public input. Sec. 9 of the City Charter also authorizes the Council to adopt rules providing for public input. Except for specific requirements for public hearings, any reasonable rules that allow public input prior to the vote of the Council should be sufficient.

The following are some items, from the Rules of Procedure of the Buncombe County Board of Commissioners, that Council might want to consider in the City's Rules:

1. County Rule IV.F provides for an individual or group to have an item placed on the County Commissioners' agenda. There is no specific provision in the City Rules which allows this. Under the County Rules, the presentation for such an item is limited to five minutes unless a majority of the Commissioners agree to allow more time.

2. County Rule IV.G allows public comment on all agenda items considered by the Commissioners. Both individuals and representatives are limited to three minutes unless a majority of the Board agrees to additional time.

3. After consideration of the formal agenda, the County Rules provide for public comment, just as is allowed at the City Council meetings. County Rule XII limits the time for all such comments to 20 minutes. The County Clerk provides a sheet for persons interested in speaking to sign up to speak. Both individuals and representatives of groups are limited to five minutes, unless a majority of the Board agrees to additional time.

Councilwoman Field asked if anyone could pull something off the Consent Agenda. City Attorney Slawter responded by saying anyone could remove an item off the Consent Agenda with that item to be discussed individually.

Councilwoman Sitnick said that if people are truly interested in City government enough to leave work early, find a parking place, put money in the meter and take their time to sit until their topic is being discussed, they should be allowed to have input. If Council truly wants to understand the issues before them, Council needs to know from the public how they want to be represented. If the worksessions are going to not allow public comment on individual items, then she would prefer not to have worksessions but to handle everything at a formal meeting - no matter how long that formal meeting takes. She has no problem with setting time limits on speakers and agrees that the meetings need to be held in an orderly fashion; however, she is opposed to denying people the right to speak when they raise their hand. She also felt that there should be enough chairs for everyone who attends Council's meetings to sit down.

Mayor Martin stated that he, too, is in favor of public input, and that can be achieved at a formal meeting when he always asks if any member of the public has any comments on every item brought before the Council.

Councilman Swicegood agreed that the public does have a chance for comment at formal meetings.

Councilwoman Field agreed that it was very important for Council to get educated on issues brought before them and Council does invite the public to get their opinions. She felt that worksessions were valuable because it affords the Council a time to discuss the information gathering amongst themselves, get information from staff and input from the public. She agreed with Councilwoman Sitnick that Council members need to return phone calls from the public in order to listen to the public's concerns. However, the public informs the Council by not only attending the Council meetings, but by those telephone calls and by sending letters stating their opinions on different matters. She feels that the most appropriate time for public comment is at the formal meetings.

Councilman Watts stated that he feels this Council has been open to public comment and also has input from the public by phone calls and letters.

Upon inquiry of Vice-Mayor Peterson, City Attorney Slawter said that City Council was not breaking the law by not allowing the public to speak each time a topic comes before the Council. He said the public should be allowed to speak before final consideration, which is normally at a formal meeting.

Councilwoman Sitnick felt the Council needed to do what is best for all the citizens and they need to make a decision based on all the information (not just information presented by staff). She stated that this is a government of, by and for the people!

Councilwoman Field felt that the people who elected her felt that she could make good, informed decisions to represent the community the best way she could.

Councilwoman Sitnick felt that the public did not abuse their speaking time and urged Council to allow public input during each worksession item.

Ms. Hazel Fobes asked Council to cooperate with the public. She suggested making the meeting room more audience oriented, and making arrangements for the audience to hear the speakers and Council.

As a result of comments by Mr. Ralph Bishop, City Attorney Slawter said that he would furnish to Council a copy of a statute Mr. Bishop felt Council was violating.

Vice-Mayor Peterson suggested an amendment to the rules to have an item at the end of each worksession agenda for public comment on items taken up during that worksession, with a three minute time limit on each speaker. He also suggested an amendment providing that the Mayor (or the Vice Mayor, in the absence of the Mayor) be authorized to allow such additional comments as may be deemed appropriate for the orderly conduct of business.

Mayor Martin asked for a show of hands on Vice-Mayor Peterson's suggested amendments. The amendments passed on a 5-2 vote with Councilwoman Sitnick and Councilman Swicegood voting "no". Mayor Martin instructed the City Attorney to prepare the appropriate paperwork to amend the City Council Rules of Procedure for appropriate action at the next formal Council meeting.

RESOLUTION NO. 95-83 - RESOLUTION AUTHORIZING THE PURCHASING DIRECTOR TO EXECUTE AN ASSIGNMENT AND MODIFICATION AGREEMENT REGARDING THE PURCHASE OF 16 BUSES FOR THE CITY OF ASHEVILLE/ASHEVILLE TRANSIT AUTHORITY

Ms. Patsy Meldrum, Assistant City Attorney, said that this resolution would authorize assignment of the purchase contract to another company, a delay in the delivery date and a delay in liquidated damages becoming accrued for the purchase of 16 buses for the Asheville Transit Authority.

In Resolution No. 94-123, adopted on June 21, 1994, the City Council awarded the purchase of 16 Orion V transit buses to Bus Industries of America, Inc. Bus Industries of America, Inc. has experienced financial difficulty in performing its obligations under the purchase contract awarded by the City of Asheville and under other bus purchase contracts awarded to it by various entities throughout the United States.

In order to avoid liquidation or bankruptcy and inevitable closure, Bus Industries of America, Inc., the Ontario Ministry of Economic Development and Trade (Ontario, Canada) and others have arranged for an asset purchase agreement. Certain assets of Bus Industries of America, Inc. would be purchased by Orion Bus Industries,

Inc., which has offices in New York, New York and is an American subsidiary of Western Star Trucks Holdings, Ltd., a Canadian company located in British Columbia.

As part of that purchase agreement, outstanding orders with customers must be resolved. In order to provide the 16 buses under the existing purchase contract with the City of Asheville, Bus Industries of America, Inc. and Western Star Trucks Holdings, Ltd. have requested that the City of Asheville make certain changes to its bus purchase contract and consent to assignment of that bus purchase contract to Orion Bus Industries, Inc.

As of May 15, 1995, Western Star Trucks Holdings, Ltd. requested agreement from the City of Asheville as follows:

1. A revised delivery date from October 14, 1995, to March 4, 1996.

2. Waiver of all liquidated damages that would accrue between October 15, 1995, and the delayed delivery of March 4, 1996, with liquidated damages becoming available again if the buses are not delivered by March 4, 1996.

3. Acceptance of the standard warranty provisions provided by Orion Bus Industries, Inc.

4. Consent to the assignment of the bus purchase contract from Bus Industries of America, Inc. to Orion Bus Industries, Inc.

Norwood Dunn, Purchasing Director; Carl Ownbey, Planner for the Asheville Transit Authority; Lonnie Blair, General Manager for the Asheville Transit Authority; Tom Tomlin, Chairman of the Asheville Transit Authority; Vic Buchanan, attorney for the Asheville Transit Authority; and Patsy Meldrum, Assistant City Attorney, conferred about the request made of the City of Asheville. As a reply was requested by May 24, 1995, this group reported to Western Star Trucks Holdings, Ltd. on that date that the City Council and the Asheville Transit Authority would need to determine whether or not to accept any or all of the terms proposed.

Since that date, numerous discussions have been held between City and Transit Authority staff and representatives of Bus Industries of America, Inc. and Western Star Trucks Holdings, Ltd. Despite requests by City of Asheville and Asheville Transit Authority staff, Bus Industries of America and Western Star Trucks Holdings, Ltd. could not consent to an earlier delivery date than March 4, 1996, and could not consent to paying any of the liquidated damages which would become due if the buses are not delivered by the original delivery date of October 14, 1995. They will, however, consent to terms as follows:

1. Provide the Asheville Transit Authority with one of our buses on or before February 5, 1996, for use by the Transit Authority so that bus drivers may be trained to operate the new buses prior to the March delivery date.

2. As this one bus would arrive on February 5, 1996, they have agreed to provide us with $1,700 in credit for bus parts which represents the interest we might pay for an earlier payment for one bus.

3. Use their best efforts to move up the delivery date for the other 15 buses should other orders be canceled.

4. Pay $100 per business day in liquidated damages, on a per-bus basis, for each bus not delivered by March 4, 1996.

5. Provide us with an additional $50,000 in credit for parts for the buses if we pay for the buses 15 days after acceptance, instead of 30 days after acceptance.

6. Secure consent by the holder of the performance bond to this Assignment and Modification.

The proposed closing date on the purchase asset agreement has been moved from May 31, 1995, to June 6, 1995. They need a response from the City of Asheville by that date in order that they may close the transaction.

Tom Tomlin, Chairman of the Asheville Transit Authority, has consulted with other members of the board of the Asheville Transit Authority.

Staff of the Finance Department, Planning Department and City Attorney's Office recommend adoption of the resolution and approval of the revised proposal of Western Star Trucks Holdings, Ltd.

Ms. Meldrum answered various questions from Council as they related to how much the liquidated damages would be, the terms of the performance bond, if the City could go to the second lowest bidder, and the reasoning behind the time deadline.

Councilwoman Sitnick asked if we could take advantage of this delay and negotiate with the new company and get 16 natural gas buses which will not add to the pollution.

Mr. Lonnie Blair, General Manager for the Asheville Transit Authority, responded that nothing else in the City uses natural gas and it would cost approximately $2-3 Million to build a fuel system.

Mr. Blair responded to Councilwoman Field's question about the difference between the different type fuels.

Councilwoman Sitnick wondered if there was another kind of bus fuel that would burn cleaner that would not require the City to build another fuel station. Mr. Blair was not aware of any other kind.

Councilman Swicegood felt that Public Service Gas could probably supply the fuel for the City at a price and might even be willing to help the City build the new station to fuel the buses.

Mr. James Cheeks, Traffic Engineer, explained to Council the advantages and disadvantages of buses with natural gas. He was uncertain as to whether the natural gas buses were safer than the others.

Vice-Mayor Peterson moved to adopt Resolution No. 95-83. This motion was seconded by Councilman Watts and carried on a 6-1 vote, with Councilwoman Sitnick voting "no".

Councilwoman Field asked for some information on emission quality of the new buses and some of the reasoning why the City chose those specific buses.

Councilwoman Sitnick also asked for information on different buses in order to become more informed on future purchases. She suggested maybe a joint fuel station with Buncombe County.

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REVIEW OF AGREEMENT WITH METROPOLITAN SEWERAGE DISTRICT ("MSD")

Mr. Mike Holcombe, Water Resources Director and City representative on the MSD Board, briefed Council on the background leading up to the MSD Consolidation Agreement.

He then highlighted some issues that have arisen since the consolidation of all the sewer collection systems in Buncombe County. Some being, but not limited to: (1) in the fall of 1994 the City agreed to start payment of sewer fees to MSD; (2) certain problem sewers in the City's Master Plan have not been addressed; (3) the Broadway sewer issue; (4) the lack of economic development extensions in the MSD Sewer System Extension Policy; (5) the need for system-wide rehabilitation throughout the District.

He felt that it is natural to expect "growing pains" when an organization like MSD moves almost overnight from a waste water treatment facility to a regional sewer utility. The physical infrastructure problems facing MSD are immense; current estimates exceed $100 Million in costs. There has been some progress made in certain areas and the need is for progress to continue and accelerate.

He said that the Water Resources staff has taken pro-active measures to improve communications and relationships with MSD staff. For instance, Robin Westbrook has been assisting MSD with public relations; they have asked for MSD participation in the design of a new billing system; and they have offered to share AM/FM mapping system with MSD.

Councilman Swicegood thought that MSD was to use one percent of their total budget for economic development. Mr. Holcombe was unaware of that, but would find out and report back to Council.

Upon inquiry of Council, Mr. Holcombe said that he felt the relationship between the MSD Board and the City Council was a good working relationship and that the three City representatives on the Board are representing the City's interests well.

Mr. Holcombe responded to various questions as they related to the incinerator project and the alkaline stabilization. Councilwoman Sitnick asked for a report on those projects.

When Council inquired about the Sullivan Act, Finance Director Larry Fisher said that it has been challenged in Court and the City lost.

When Councilman Swicegood asked if an efficiency study had been done on staff at MSD, Mr. Holcombe responded that about two years ago a study was performed and some parts of the study were implemented and some were not.

PUBLIC INFORMATION PLAN

Ms. Robin Westbrook, from the Water Resources Department, said that City Council has asked to review additional media sources for inclusion in the Public Information Plan.

In the original Plan the Asheville Citizen-Times was listed as the only publication that the City would use to publish CityWorks. CityWorks will consist of a 1/4 page ad every two weeks.

The following newspapers report these rates and distributions:

Mountain Xpress

Wednesday distribution: Western North Carolina - 20,000
Buncombe County - 14,000
City of Asheville - 10,000

Rates:
1/4 page every other week — $134.00 every other week
26 weeks = $3,484

A rate increase is pending in July. New rates are not available at this time.

Asheville African American News

Monthly distribution: 10,000

Rates:
1/2 page monthly — $273.00 every month
12 months = $3,276

Asheville Citizen-Times

Daily circulation: 67,311
Buncombe County: 37,500
City of Asheville: 20,500

Rates:
1/4 page ad every other week — $684.16 every other week
26 weeks = $17,788

Upon inquiry of Councilwoman Sitnick why the Asheville Advocate was not listed, Ms. Westbrook said that she contacted Mr. Clarence Benton and he advised her that his presses had stopped. He said that if the City guaranteed him advertising, he would start his presses again. Ms. Westbrook suggested he work on getting certified and then we would be happy to consider his paper for advertisement.

Upon inquiry of Councilman McClure if the City was fully utilizing the ARNIE phone system, Ms. Westbrook said that we are not; however, this year there will be an ad in the Yellow Pages and Black Pages listing ARNIE codes.

Councilwoman Sitnick moved to include the advertising in the Mountain Xpress, the Asheville African American News and the Asheville Citizen-Times for the total cost of $43,695. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Councilwoman Sitnick suggested that if we have some surplus in the budget, she would like to consider the success of this program and increase it's budget.

CONSENT AGENDA:

Consideration of Bids to Purchase a Skid Steer Loader with Concrete Planer and Transport Trailer

Summary: Staff recommends that award be made to the low bidder, E.F. Craven Company, Asheville, N.C., in the amount of $28,912 for a 'Case' Model 1845C Skid Steer Loader with an 'Alitec' Model CP16 Concrete Planer and a 'Hudson' Model HSE 14 Transport Trailer. The following bids were opened on April 25, 1995:

Vendor	Net Cost
E.F. Craven Co., Asheville, NC	$28,912.00
Viking Equipment, Asheville, NC	$31,650.34
Jones Tractor Co., Spartanburg, SC	$39,897.00
Corriher Tractor Inc., Lenoir, NC	$45,657.00

Sale of $3,000,000 General Obligation Water Bonds, Series 1995

Summary: This resolution approves the issuance of $3,000,000 General Obligation Water Bonds, Series 1995. The bonds were sold on June 6, 1995.

Amendment to an Agreement with William B. Farris for review of the draft Unified Development Ordinance

Summary: The City has previously entered into an agreement dated March 22, 1995, with William B. Farris for consulting services in the review of the draft Unified Development Ordinance. That agreement provides that all services shall be completed by Mr. Farris on or before June 30, 1995. The parties have agreed to extend that deadline to July 31, 1995. No costs are associated with this extension.

Demolition of 25 Ridge Street

Summary: This resolution sets a public hearing for June 27, 1995, to consider demolition of 25 Ridge Street, Asheville, North Carolina.

Section 6 of Braeside at Biltmore Park Voluntary Annexation

Summary: Biltmore Farms Inc. has submitted a petition for the annexation of an area located west of Overlook Road - Biltmore Park, Section 6. The area petitioned for annexation consists of 19 acres. This annexation is adjacent to Section 5 of Biltmore Park, but will not be contiguous to the City until the annexation of Section 5 becomes effective on August 21. Therefore, this petition will be handled as a satellite annexation.

Beaverdam Run Voluntary Annexation

Summary: Beaverdam Run Homeowner's Association has submitted a petition for the annexation of all that portion of Beaverdam Run not previously annexed into the City of Asheville. The area petitioned for annexation consists of 34 acres and is adjacent to the existing corporate limits.

Brooks-Howell Home on Spears Avenue - Landmark Sign Designation

Summary: Brooks-Howell Home is requesting landmark sign designation for their Spears Avenue arched entrance sign.

At the Historic Resources Commission meeting on May 12, 1995, the Commission voted 12-1 to recommend to City Council that the Brooks-Howell Home arched entrance sign be designated a landmark sign. They determined that the sign meets criteria A and B as set forth in the sign ordinance for the following reasons: Criteria A - due to the number of tourists who come to Asheville to visit relatives and friends at the Brooks-Howell Home; Criteria B - it is a unique sign within the City of Asheville.

Massage Therapist License for Joan Mary Held

Summary: Joan Mary Held seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Held's application and all pertinent requirements have been met.

Massage Therapist License for Mary Worrell

Summary: Mary Worrell seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Worrell's application and all pertinent requirements have been met.

Canceling Deed of Trust on Patton Avenue Property

Summary: This resolution would authorize the substitution of a trustee in a 1938 deed of trust and authorize execution of an acknowledgment of satisfaction of the debt secured by the deed of trust.

On August 18, 1938, the City of Asheville conveyed to Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, a small tract of property located at or near the intersection of Tampa Avenue and Patton Avenue, which deed was recorded in Deed Book 509 at Page 467 on August 26, 1938 in the Office of the Register of Deeds for Buncombe County.

Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, executed a deed of trust on August 25, 1938, which was recorded in Deed of Trust Book 367 at Page 194 on June 21, 1939, in the Office of the Register of Deeds for Buncombe County, wherein they conveyed an interest in the property located at or near the intersection of Tampa Avenue and Patton Avenue to Phillip C. Cocke, Jr., as Trustee, to secure a note in the amount of $250.00 given to the City of Asheville, with the City of Asheville being a third-party beneficiary under said Deed of Trust.

The City of Asheville has received a request from attorney Janese M. Baliles to substitute the City Attorney or Assistant City Attorney II for the trustee named in the Deed of Trust referred to above and for the substitute trustee to execute a Trustee Acknowledgment of Satisfaction for the deed of trust referred to above.

No record has been found of whether or not the note in the amount of $250.00 has been paid and satisfied in full. N. C. Gen. Stat. sec.

45-37(b) provides, however, that it shall be conclusively presumed that the conditions of any deed of trust securing the payment of money have been complied with or the debt secured thereby paid or obligations performed from and after the expiration of fifteen (15) years from either the date when the conditions of the deed of trust were required by its terms to have been performed or from the date of maturity of the last installment of the debt or interest secured thereby.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER ITEMS:

Meeting with the Airport Authority

It was the consensus of Council to meet with the Airport Authority at an upcoming worksession.

City Council Worksession on July 4, 1995

It was the consensus of Council to not meet the week of July 3, 1995, and if a worksession is needed, the Council will meet on Monday, July 10, 1995.

Worksessions; Council Agendas; Skateboarding; and ETJ Worksession

Upon inquiry of Councilwoman Field about the list of items on Councilwoman Sitnick's Worksession List, Mayor Martin said that he and Councilwoman Sitnick will be meeting soon to go over her list and then will get back with Council to determine which need to be actual worksession items.

Councilwoman Field thought it might be helpful to have an abbreviated agenda for dissemination to the public.

Councilman Field asked the City Manager to look into the possibility of providing a location for kids to skateboard in hopes that they will not continue to damage areas at the Vance Monument and also in front of the City Hall building. She also asked Council if they had a problem with her asking Maggie O'Connor, HRC Director, to meet with a group concerned about the restoration of the Vance Monument - Council did not have any problem.

It was the consensus of Council to have a worksession on the extra-territorial jurisdiction in the near future.

Payroll Deductions Policy

Councilman McClure asked Council to re-consider the payroll deduction policy to not only allow payroll deductions where required by law and for City-sponsored fringe benefit programs, but also for charitable 501 (C) (3) organizations that meet certain requirements.

He felt that the policy agreed to by Council on May 16, 1995, was done with the understanding that Premier Credit Union would be able to offer similar services to the other organizations - those being, Fraternal Order of Firefighters ("FOF"), Fraternal Order of Police ("FOP"), Police Benevolent Association ("PBA"), Asheville Firefighters Association ("AFA"), Asheville-Buncombe United Public Workers ("ABUPW"), and the United Way.

A letter has since been received by Pam McGrayne from Ken Lane, President and CEO of Premier Federal Credit Union, dated May 23, 1995, which reads:

"As a result of our meeting on May 22nd, I have researched the avenues available to us in trying to best serve our Credit Union members.

We presently offer group services to the Asheville Firefighters Association and Asheville Buncombe United Public Workers, on an individual credit union authorized basis. We are prepared to offer similar services to the Fraternal Order of Police, Fraternal Order of Firefighters, and the Police Benevolent Association upon request, and for a fee to recover the cost involved.

Unfortunately, we are unable to offer this service to the United Way and Colonial Insurance or other non-shareholder member organizations"

As a result of this information, Councilman McClure asked that Council re-consider the policy to allow the United Way to continue to receive City payroll deductions.

Councilman Swicegood suggested Mr. Lane meet with the Council and explain exactly why this service cannot be met through the Credit Union and he also wondered if the Credit Union was making any money off City employees.

Ms. Pam McGrayne, Personnel Director, explained that because of federal guidelines that Premier Federal Credit Union operates under, the United Way is not in their field of membership.

Councilwoman Sitnick read a letter from "Members of the Asheville Fire Department" which contained 43 signatures. The letter reads

"On May 16, 1995, you decided to abolish <u>all</u> payroll deductions for employees other than those required by law or those for City fringe benefits.

You did this on the assumption that the Premier Credit Union could take care of all the rest of City employee deductions. We've now learned that this assumption was wrong. Premier Credit Union can't do it.

In fairness to all City employees, you need to reconsider your decision. Because Premier Credit Union can't handle all the deductions you thought they could, letting your May 16 decision stay in place will hurt a lot of people.

We respectfully request that you ask City Manager Jim Westbrook to review his proposed policy in light of the new facts that have come to light about Premier Credit Union and payroll deduction."

Councilman Watts said that he was not present at the meeting on May 16, 1995, when this matter was discussed. He said that being a former police officer, he joined the FOP for his own protection but the United Way is a voluntary contribution to help a charitable organization that helps many people. He supported bringing the matter back on the table again.

Councilwoman Sitnick moved to bring the matter regarding payroll deductions back for Council consideration. This motion was seconded by Councilwoman Field and carried on a 5-2 vote with Vice-Mayor Peterson and Councilman Swicegood voting "no".

Vice-Mayor Peterson said that the ABUPW brought the issue up of the hidden cost of $15,000 for each payroll deduction. He felt that if you allow one organization to have payroll deductions, you need to be fair and allow all organizations to have the same service. He felt the City would be causing a lot of problems if they don't give all City employees the same choices.

Audit/Budget Director Bob Wurst apologized to Council on giving them incorrect information on the cost for each payroll deduction. He said that correct administrative cost for each payroll deduction is $3,600.

Councilman Swicegood expressed concern over the City Manager and the Fire Chief being on the United Way Board while on the City's payroll. He also questioned the use of a City employee being a Loaned Executive during the United Way campaign. He felt the City needed to be fair to all organizations regarding payroll deductions. He stated that he was not against the United Way, but he feels this policy change will only block the union from participating in City government.

Mayor Martin explained that the City is not excluding the union. They have the same services available to them through the Credit Union as the other organizations - the United Way is the only organization that does not have that service available to them.

Mr. John Teeter urged Council to consider allowing the United Way to continue to have a City of Asheville payroll deduction.

Councilman McClure moved to allow payroll deductions (1) where required by law; (2) for City sponsored fringe benefit programs; and (3) for 501 (C) (3) charitable organizations which are part of a "federation" (a group of ten or more voluntary charitable organizations) which meet the criteria in the policy presented by staff at the May 16, 1995, Council worksession. This motion was seconded by Councilman Watts. This motion carried on a 5-2 vote with Vice-Mayor Peterson and Councilman Swicegood voting "no".

Councilwoman Sitnick moved to allow any organization that is willing to pay the payroll deduction administrative costs to be allowed to have the City of Asheville payroll deduction service. This motion was seconded by Vice-Mayor Peterson. This motion failed on a 2-5 vote, with Councilmen Watts, Swicegood, McClure, Councilwoman Field and Mayor Martin voting "no".

Tree/Greenway Commission; and 1995 Leadership Summit

Councilwoman Sitnick stated that she had a letter that confirmed the Asheville Tree/Greenway Commission's position on the Jones School expansion design.

Councilwoman Sitnick said that Councilman Watts had been instrumental in bringing the National League of Cities 1995 Leadership Summit to Asheville on August 30-September 1, 1995, at the Grove Park Inn. She suggested Council make every attempt to attend this Summit in which Kathleen Hall Jamieson, Dean, The Annenberg School for Communication, University of Pennsylvania, will be the key speaker.

Stuart Cowles - ClimbMax Inc.

Mr. Stuart Cowles, President of ClimbMax Inc., urged Council to consider a lease and easement agreement with him for an outdoor climbing wall to be located on the exterior wall of the Wall Street Parking Garage.

Mayor Martin said that City staff would review the request and the item would be placed on Council's next formal meeting agenda.

Closed Session:

Councilman McClure moved to go into closed session to discuss location or expansion of industries or other businesses in the area. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilman McClure moved to come out of closed session. This motion was seconded by Councilman Swicegood and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 9:02 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - June 13, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and Deputy City Clerk Phyllis Corns

Absent: None

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 95-86 - RESOLUTION TO RETIRING EMPLOYEE CHARLES W. JOHNSON JR.

City Manager Westbrook read the resolution stating that Charles W. Johnson Jr. has been an employee for 11-1/2 years and has requested retirement from his position as Firefighter Senior in the Asheville Fire Department. He expressed City Council's appreciation to Charles for his service to the City of Asheville and its citizens.

Councilwoman Field moved for the adoption of Resolution No. 95-86. This motion was seconded by Councilman Watts and carried unanimously.

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B. RESOLUTION NO. 95-85 - RESOLUTION TO RETIRING EMPLOYEE WILLIAM H. WHITE

City Manager Westbrook read the resolution stating that William H. White has been an employee for over 26 years and has requested retirement from his position as Custodian in the Public Works Department. He expressed City Council's appreciation to William for his service to the City of Asheville and its citizens.

Councilman Swicegood moved for the adoption of Resolution No. 95-85. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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C. RESOLUTION NO. 95-84 - RESOLUTION TO RETIRING EMPLOYEE ROBERT THOMPSON

City Manager Westbrook read the resolution stating that Robert Thompson has been an employee for 39 years and has requested retirement from his position as Assistant Fire Marshal in the Asheville Fire Department. He expressed City Council's appreciation to Robert for his service to the City of Asheville and its citizens.

Councilwoman Field moved for the adoption of Resolution No. 95-84. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

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D. PROCLAMATION DESIGNATING THURSDAY, JUNE 15, 1995, AT 7:00 P.M. AS THE HOLOCAUST MEMORIAL SERVICE AT TRINITY BAPTIST CHURCH

Mayor Martin designated Thursday, June 15, 1995, at 7:00 p.m. as the Holocaust Memorial Service at Trinity Baptist Church. He presented the proclamation to Reverend Tim Brady. Reverend Brady briefed the Council on the service.

E. PROCLAMATION PROCLAIMING JUNE 16, 1995, AS "DAY OF THE AFRICAN CHILD"

Mayor Martin read the proclamation proclaiming June 16, 1995, as "Day of the African Child" in the City of Asheville and presented it to Mr. Fobes. Mr. Fobes spoke in support of the proclamation.

II. PUBLIC HEARINGS: None.

III. UNFINISHED BUSINESS: None.

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-87 - RESOLUTION REQUESTING THE NORTH CAROLINA BOARD OF TRANSPORTATION TO NAME INTERSTATE 240 AS "BILLY GRAHAM EXPRESSWAY"

Mayor Martin explained that the City and County previously discussed a joint request to the State Board of Transportation that Interstate 240 in Asheville and Buncombe County be named the "Billy Graham Expressway."

Councilwoman Sitnick said that she was very supportive of this request and that it would be a great honor for Rev. Graham.

Mayor Martin answered several questions raised by Ms. Mary Jo Brezny who felt no one deserved the honor more than Rev. Graham.

Mayor Martin said members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-87. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 287

B. ORDINANCE NO. 2218 - AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 9 (MASSAGE PARLORS AND HEALTH STUDIOS) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Ms. Deborah Crowder, Revenue Collector, said that the City's current massage parlors and health studios ordinance requires all requests for a privilege license to operate as a massage therapist to be approved by City Council before the Finance Director can issue same. Additionally, the current ordinance prohibits massage therapists from treating members of the opposite sex.

This ordinance sets forth specific educational standards that massage therapists must meet in order to be licensed as massage

therapists in the City of Asheville. It also replaces the language "massage parlors and health studios" with "massage therapy regulations." The amendment does not include the restriction prohibiting massage therapists from treating members of the opposite sex; however, it does prohibit the massage of private parts for hire. Massage therapists must continue to provide certain data to the City of Asheville so that proper regulation of this profession can be maintained. A major new provision in this amended ordinance provides for appointment, by the City Manager, of a three member City staff Massage Therapy Appeals Board. That Board will hear various appeals. The Board's decision will be final and further appeal must be taken to the Buncombe County Superior Court. The City department responsible for gathering all of the necessary data in order to determine whether to issue a privilege license is the Finance Department. The City department responsible for enforcing the ordinance is the Police Department.

Mayor Martin said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2218. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2218 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 113

C. RESOLUTION NO. 95-88 - RESOLUTION AMENDING THE RULES OF PROCEDURE FOR THE ASHEVILLE CITY COUNCIL

City Attorney Slawter said that this draft provides for (1) an amendment to Rule 1 regarding the meeting time (change from 4:00 p.m. to 5:00 p.m., consistent with Council's recent change) and also concerning meeting times in order to be consistent with the change discussed on June 6, 1995, with regard to public address to the Council (the Rules had not previously distinguished between worksessions and formal meetings); (2) an amendment to Rule 25 so as to reference "closed" sessions, rather than "executive" sessions (consistent with the recent change in the Open Meetings Law); and (3) an amendment to Rule 7 regarding public address to the Council addresses the distinctions between the types of public comments taken at the formal meetings and the worksessions.

At the request of Mayor Martin, City Attorney Slawter read Rule Nos. 1 and 7 as follows:

Rule No. 1 - Meeting Times

The council has established the time and place of its regular meetings at 5:00 p.m. on Tuesday of each week in the Council Chamber on the second floor of the City Building. Meetings may be held at alternate times and locations as deemed appropriate by the council, upon the giving of notice as required by law. It is the intent of the council to ordinarily begin "regular" meetings of the council at 5:00 p.m. on at least two Tuesdays of each month. The council intends to conduct meetings which will primarily consist of "worksessions" which will generally begin at 2:00 p.m. on the other Tuesdays of the month. On the Tuesdays that "regular" meetings are conducted, the "regular" meeting may be preceded by a "worksession."

The primary purpose of the "worksessions," whether they precede the "regular" meetings or are conducted solely as "worksessions" is for

the purpose of informing the council of matters over which the council has concern, including upcoming agenda items. The focus of the "worksessions" will be for the purpose of receiving reports from the staff and other professionals reporting to the council; meeting with representatives of other governmental bodies, including boards and commissions appointed by the council; and receiving such additional information as the council may deem appropriate in carrying out its duties.

Rule No. 7 - Public Address to the Council

Citizens desiring to address the council shall be given the opportunity to do so as follows:

(a) Any individual or group who wishes to address the council may make a request to be on the agenda to the city clerk. The mayor and city manager shall determine when preparing the agenda for the meeting whether the matter will be placed on the agenda.

(b) Subject to the time limitations set forth hereinafter, the public shall be allowed to comment on matters under consideration by the council prior to a final vote on the matter by the council. Public comment shall generally be taken regarding such matters under consideration by the council during the "regular" 5:00 p.m. meetings of the council as referenced in Rule 1. Public comment will not be taken during the "worksession" discussions of the council except in those instances where a final vote of the council is being taken during a worksession. In such instances, public comment shall be allowed in accordance with the time limits set forth hereinafter.

(c) At each "regular" meeting and each "worksession" of the council, at the conclusion of regularly scheduled business, any group or person wishing to address the council on any matter may do so, subject to the time limits set forth hereinafter.

(d) Any person addressing the council shall be limited to a three minute presentation except that any group making a presentation to the council may have a single spokesperson who will be allowed ten minutes to address the council. The council will receive written information from any individuals or groups that cannot conclude their presentations within these time limitations.

(e) The mayor (or the vice mayor, in the absence of the mayor) shall be authorized to allow additional comments and time for comments as he or she may deem appropriate for the orderly conduct of business.

Councilwoman Sitnick asked how one could make a procedural motion to divide a complex motion and consider it by paragraph. City Attorney Slawter explained that if someone makes an expansive, lengthy motion that would include more than one bottom line, he felt that Council would ask that the motion be broken down into multiple parts so that each part could be considered separately.

Mayor Martin said that this amendment is certainly not to stifle or restrict public comment. The amendment only sets forth the time of

when it is appropriate to make public comment. In addition to public hearings, the public will still be given an opportunity to comment on matters under consideration by the council prior to a final vote on the matter.

Councilwoman Field asked if Rule 1 should be further amended to differentiate between the 5:00 p.m. regular meeting time and the 2:00 p.m. worksession time.

After a short discussion, it was the consensus of Council to further amend Rule 1 to read "... The Council intends to conduct meetings which will primarily consist of "worksessions" which will generally begin at 2:00 p.m. on the other Tuesdays of the month. ..." (underlining denotes addition)

Councilman McClure pointed out that the term "generally" is only a target time and not a specific time regarding worksessions.

Upon inquiry of Mr. Ralph Bishop about if the amendment to Rule 7 in anyway supersedes Section 9 of the City Charter, City Attorney Slawter said that this amendment does not supersede the Charter provision. Mr. Bishop went on further to express his opinion that it is a flagrant insult to ask for public comment in formal meetings when all decisions are made at worksessions.

Vice-Mayor Peterson said that at the worksessions Council does discuss matters but they vote on those matters at the formal meetings. He agreed that a lot of discussion does takes place during the worksessions, but the public is allowed in worksessions and they are allowed to make public comments when appropriate.

Mr. H. K. Edgerton understood there has to be a procedure in place to conduct business; however, when a professional group is allowed to come before Council and give a report, Council must allow the community to be heard to challenge the report, if they feel the report is not accurate. People are encouraged to get involved in community politics and lead others and the Council should have to listen to the voice of the people at some point in time.

Mr. Daniel Breen stated that Mr. Bishop and Mr. Edgerton both raised valid points. He felt that worksessions and pre-councils needed to be opened up for more than staff reports. He also felt that Council only wants to listen to "yes" people and if they want to hear the "real stuff" that goes on in the community, public comment should be heard throughout the meeting and not at the end when most people are gone and the news media have left.

Mayor Martin responded to Mr. Breen by stating that this Council is very conscious about listening to the input of our citizens, but, as in every government, perimeters need to be set.

Mr. Elizabeth Simpson was alarmed by this amendment if it meant curtailing spontaneous comments from the citizenry. She felt people will feel stifled.

At the request of Ms. Valerie Larrea, Mayor Martin and Councilwoman Sitnick clarified the amendment regarding public address to the Council in worksessions. Ms. Larrea felt very strongly that communication about issues that effect our economic livelihood and the quality of life are extremely important for everyone to know about and for Council to know about.

Ms. Laura Gordon said that she was troubled at Council's attempt to limit public comment at worksessions. She felt that it was at the worksessions where the real discussion goes on and decisions are made. Even though there is not a formal vote, there is a vote of intent. She feels that limiting public comment also diminishes the value of citizen input in the decision-making of the process of City Council. For public comment to be meaningful, it needs to be heard when the issue is being discussed, not at the end of a worksession.

Ms. Mary Jo Brezny agreed with Ms. Gordon's comments. She too was concerned with limiting public comment at worksessions. She did not consider the time at the end of the worksession adequate opportunity for public input. She asked Council give this amendment further consideration.

After listening to Ms. Brezny's comment about her attendance at a specific worksession, Mayor Martin encouraged the public to let him know ahead of time about specific circumstances in order that he can make provisions for their comments to be heard.

Mr. Fobes felt Council should re-examine the amendment of allowing public input.

At the request of Dr. John Grant, Mayor Martin clarified the amendment regarding public input at regular meetings vs. worksessions.

Mr. Jim Skalski, resident of Kenilworth, asked if any member of Council had the right to recognize someone at any time. Mayor Martin said it would be up to the presiding officer; however, any Council member could request the presiding officer for someone to be heard and the request is generally permitted.

Vice-Mayor Peterson said that Mayor Martin has always been agreeable to him when he has asked the Mayor to recognize someone in the audience who wished to speak on a specific topic.

Councilwoman Sitnick felt that if she recognized everyone in the audience and knew who was there for what issue, that might work, but she doesn't know everyone. She stated there is an inconsistency in the language and here's where it occurs. "Under Rule 1, it reads 'The focus of the worksessions will be for the purpose of receiving reports from the staff and other professionals reporting to the Council; meeting with representatives of other governmental bodies, including boards and commissions appointed by the Council; and receiving such additional information as the Council may deem appropriate in carrying out its duties.' That last portion 'and receiving such additional information as the Council may deem appropriate in carryout out its duties' sounds great and I'm sure the Mayor wouldn't object if I looked out and I saw Tony Ponder here and I knew he knew about how to put trees on the right-of-way and I asked Tony to come up and give us some of his expertise. However, in Rule 7, under public address to the Council, Section (e), it says 'the mayor (or the vice-mayor in the absence of the mayor) shall be authorized to allow additional time for comments as he or she may deem appropriate for the orderly conduct of business.' So that really gives the authority of the right to recognize members of the public to the Mayor and the Vice-Mayor. Now, as I said, I don't know that the Mayor would necessarily stop me. But the truth is that the reason this is on the agenda is because I wanted it on the agenda because the Charter was not consistent with the action. The fact remains that the public was not always recognized to speak at worksessions. So, that inconsistency is in the language and we need to talk about that and who really has the

authority to address people in the public. And, should a member of Council have the burden of knowing everybody in the public and what issue they are at Council for. The other fact is that there are times that there are people like Dan Breen. Dan Breen participates on a number of issues. If we have two or three of those issues that Dan is interested in and has knowledge about, I don't know which one he is there at the meeting for. I shouldn't have to have the responsibility to know whose at the meeting about what."

Mr. Skalski suggested putting time limits on different sections of the agenda to allow for public speaking. He supported Council allowing public comment at worksessions.

Councilwoman Field said that it is important to recognize that when Council invites someone or a group to come to their worksessions to give Council information, respect needs to be given to that person or group. Many of them spend a lot of time gathering that information and many of them are volunteers. They come to educate the Council. What Council is trying to do with this amendment is to set some guidelines and if these rules don't work, they can be amended. There was a time when there was no public comment at worksessions, so this has opened the process up and allows more flexibility.

Mr. Edgerton was concerned that if a presentation is made at the beginning of a worksession, by the end of the meeting when the public is allowed to make comments about that presentation, the group who made the presentation has left and cannot respond.

Mr. Bishop stated that if Council doesn't have time to conduct the public's business, they shouldn't run. Mayor Martin stated that the Council puts in countless hours that the public is not aware of in attending meetings as early at 7:00 a.m. They also need time to attend their regular business of earning a living.

Councilwoman Sitnick moved to vote on the amendments separately, with the amendments to Rule 1, related to meeting times, and Rule 25, related to closed sessions, being considered together and the amendments to Rule 7, related to public address to the Council, being considered separately. Councilwoman Field seconded the motion. By a show of hands, the motion failed on a 3-4 vote, with Councilwoman Field, Councilwoman Sitnick and Councilman Watts voting "aye" and Mayor Martin, Vice-Mayor Peterson, Councilman McClure and Councilman Swicegood voting "no."

Councilman Swicegood moved for the adoption of Resolution No. 95-88, amending Rule 1 as read by City Attorney Slawter earlier (with the amendment in Rule 1 about worksessions generally beginning at 2:00 p.m.); amending Rule 25 so as to reference "closed" sessions rather than "executive" sessions; and Rule 7 as read by City Attorney Slawter earlier. This motion was seconded by Councilman McClure.

Councilwoman Sitnick said "members of the public who referred to the Charter are absolutely correct. The Charter did state that the Council was to meet no less than once a week and provide reasonable opportunity for public comment on issues under consideration on the agenda that day. And the reason I challenge the Council to reconsider that Charter is because our actions were different than the Charter spoke, in my mind. It is my opinion that by having worksessions every other week, we have undermined an opportunity for public participation and we have diminished it. We have two formal meetings a month at which time we vote on issues before us. Not everybody in the public can come

to those formal meetings. We have a situation described earlier by Councilwoman Field where she said at the end of four or five or six hours we're kind of brain dead. But that's my point exactly. We had a worksession last week that was seven hours long. If we're brain dead at the end of seven hours, how are we supposed to be impressed or inspired or influenced by somebody in the public who comes and speaks to us for three minutes about an issue that we heard five, six or seven hours previously. My feeling is that this is supposed to be of, by and for. This is about representative government. We are not up here charged with representing official committees that come before us or staff members who come before us or experts who come before us. We are charged with representing them and everybody else in the public. It's very nice that you applaud us for opening up worksessions for public comment, but don't applaud us for what we're supposed to do. This is representative government. We don't know how to represent the public unless we hear from them. In worksessions, we take straw votes. We raise our hands showing our intention of how we're going to vote the following week in a formal session. So, if we hear from people during a worksession who are invited to speak with us and then we hear from members of the public at the end of the worksession, or maybe not at all because somebody couldn't get there at 2:00 or 3:00 or 4:00, but we have to wait a week and then hear from them. The truth is that we're hearing from them well after the fact. Often times the Mayor will say the Council has been previously made aware of a certain resolution or a certain amendment and that's true. We're made aware of those at the worksessions. If members of the public come to speak to us at a formal Council meeting and weren't at the worksession, they don't know what transpired. They don't know what influenced us. Often times when a member of the public speaks at the end of the worksession, the folks who addressed us officially on that issue have left the meeting already and don't hear anything. And so, if a member of the public, for instance, falsely accuses someone - that person isn't there to defend themself. If that person makes a misstatement or gives false information, the original testifier is not there to refute that information. Allowing public participation isn't complex at all. You either do or you don't. The national trend is to allow more public participation, to hear more from the public, to challenge the public to be responsible for the government they get. Democracy may be an inconvenience, but I thank God for it. Since we were not able to divide the three rules under consideration for a vote, I'll have to vote against this, although I have no objection to voting for a 5:00 p.m. meeting time. I was one of the people who supported that, so that we could make it later and allow people to come after work. As a previous speaker said if somebody takes off work and puts a quarter in the meter and comes into this building at 2:00 or 3:00 in the afternoon and they are so motivated to do that because they're interested or concerned or have something to say about an issue before this representative body of government, then I think that person should be allowed to speak at the time the issue is being dealt with - not five hours or six hours or seven hours later when everybody is gone, maybe that person had to go, and when the Council has really been tired by everything they've heard."

Mayor Martin clarified that the reason he states that everyone on Council has received a copy of the resolution or ordinance previously is because Council receives a copy of the resolution or ordinance in their package ahead of time - it's not because it was something done at a worksession. He also said that if someone has taken off work and has made a special effort to come, if they will let him know ahead of time he will make sure they are heard on their specific issue.

Councilwoman Sitnick appreciated the Mayor making the special effort to make sure people are heard and hoped that the announcement at each worksession. She said that "the inconsistency she referred to earlier in Rule 1 where it said 'receiving such additional information as the Council may deem appropriate' there have been times at worksessions where I have wanted to hear from people in the public and I have not been allowed. In Rule 7 (e) where it gives you or the Vice-Mayor authority to call on someone from the public, can we clarify, or at least firm up that inconsistency and can we say that the Mayor, Vice-Mayor or any member of Council is allowed to ask members of the public, during the worksession, if they feel that there is information that should be forthcoming."

Mayor Martin responded by saying that he sees no inconsistencies in the sentence in Rule 1. He said that does not preclude recognizing a member of the public at any time.

Councilwoman Sitnick said that she just wanted to clear up who is authorized to recognize that member. She has tried and she has not been permitted to.

Mayor Martin said the final decision on these has to rely on the person conducting the meeting - whether it's him, whether it's the Vice-Mayor or a member of Council in our absence.

Councilwoman Sitnick said she is just asking for consistency in the language. If the Mayor is going to be the authority that allows public comment, then she recommended in Rule 1, paragraph two, where it says "an receiving such additional information as the council may deem appropriate in carrying out its duties" should be changed to read "... as the Mayor or Vice-Mayor may deem appropriate ..." so that it's consistent with Rule 7 (e). She didn't agree with it and she won't vote for it but at least our laws will be consistent.

City Attorney Slawter said that the distinction is that in Rule 1 we were addressing what the focus of the worksessions would be and he tried to include within the categories all the types of things that Council takes up during its worksessions. This is really talking about setting up a worksession agenda and this is intended to cover what gets on that worksession agenda. In Rule 7, it addresses who gets to speak and when and it would be the Mayor or Vice-Mayor who is authorized to recognize someone for additional time or additional input during the meeting.

Councilwoman Sitnick said that this is just one more lack of recognizing democracy.

Mayor Martin didn't recognize that at all.

On a voice vote, Councilman Swicegood motion as previously stated passed on a 6-1 vote, with Councilwoman Sitnick voting "no."

RESOLUTION BOOK NO. 22 - PAGE 288

D. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AND EASEMENT AGREEMENT BY AND BETWEEN CLIMBMAX INC. WITH THE CITY OF ASHEVILLE FOR AN OUTDOOR CLIMBING WALL TO BE LOCATED ON THE EXTERIOR WALL OF THE WALL STREET PARKING GARAGE

Mr. Chip Scott, Festivals Director, introduced Mr. Stewart Cowles, owner of ClimbMax Inc., to brief the Council on the project. He said

that Mr. Cowles has presented his project before the Streetscape Committee of the Downtown Commission and received approval. He has complied with the Downtown Design Review guidelines. Sutton, Kennerly Engineers, the same firm used when the deck was built, have reviewed and approved the project. Channel bolts will be used to connect the stainless steel form to the deck. John Miall, Risk Manager, has approved the project and his suggestions have been incorporated. Legal staff has worked with Mr. Cowles' attorney concerning the lease and easement.
He said the design has been modified slightly since the merchants, City staff and streetscape volunteer have worked together on it.

Mr. Scott said that staff is requesting approval of this resolution pending consent of the Trustee on the wall, which is Wachovia Bank.

Mr. Stewart Cowles reported on the project by saying that he is requesting permission to erect a climbing wall (approximately 36') on the exterior of the Wall St. parking deck. The site is located in the plaza along Wall St. near the elevator. Mr. Cowles leases retail space within the first floor of the deck for a climbing gym. The new wall would not only add a more challenging wall for visitors to ClimbMax, it would add an attraction to the downtown and Wall St. A wall of this type could be used for international climbing competition. Climbing will be an event in the 1996 Olympics and is rapidly gaining in popularity.

Mr. Cowles said that a grant has been received through Quality Forward in the amount of $20,000 for the planned park which would be in front of the wall. No City money is projected to be needed. The project will be a partnership between Wall St. merchants, Quality Forward, youth groups and the City.

Upon inquiry of Councilman Swicegood, Mr. Scott said this is a lease which includes a monthly payment of $10 a month for 12 months for a total yearly lease of $120.00. This is in addition to the current lease that Mr. Cowles already has through the Wall Street Limited Partnership, which is approximately $800 a month for his current indoor space. The lease is through August 31, 1999.

When Councilman Swicegood questioned the charge, Mr. Cowles said that it would be an extension of the current services they provide indoors. There might be a supplemental $1.50-$2.50 for people who chose to use the indoor and outdoor facility. However, Bele Chere might be a different situation.

Councilman Swicegood said that since the City is always looking at new income streams, he wondered if the lease payment is fair enough. When he asked about the cost of the wall, Mr. Cowles responded the wall would cost approximately $30,000.

Councilman Swicegood also asked about security of the wall at night. Mr. Scott said that great lengths of details have been gone through to make sure that this is secure after hours by fencing and removing the hand holds. Literally there would be no way to climb the wall once it has been closed.

Vice-Mayor Peterson stated his concerns about the lease payment.

Upon inquiry of Councilwoman Field, Mr. Scott said that they have looked at the issue of the City's mobile stage to make sure that public space for staging, festivals and other events was not lost.

When Councilwoman Field asked about possible permanent damage to the parking deck from the drilling to put the bolts in, Mr. Cowles said that they are now building a free standing structure. The structure will, however, need some lateral support from the deck and they anticipate approximately 15-20 drill holes will be needed for that lateral support.

Councilwoman Field said that the Asheville Downtown Commission should have been more involved in this project because they could have possibly been helpful in resolving some of these issues.

Councilwoman Field questioned the fence around the structure. She felt it didn't reflect Asheville's heritage. Mr. Cowles said that they are still trying to make the fence appealing to fit into the scheme that is already there.

Risk Manager John Miall answered questions from Councilman McClure when he asked if $1 Million in liability coverage was adequate.

Upon inquiry of Councilman McClure, Mr. Cowles responded to questions about the annual maintenance of the wall. He said that in terms of the repair of the facade of the parking deck, he would like to set up a fund for the maintenance of repairing the bolt holes that might be placed into the deck.

Mr. Cowles, when responding to Councilman McClure, explained the standards for the climbing wall.

Councilman Swicegood said that he feels this is a great idea, but didn't feel he could support it for such a low monthly lease payment.

Vice-Mayor Peterson agreed with Councilman Swicegood and also expressed concern over the City's liability.

Mr. Miall briefed the Council on why he felt the City was adequately protected regarding liability insurance.

Mr. Bill Schaefer, Capital Projects Coordinator, explained that the City is limited in revenues it can obtain from taxable entities. Councilman Swicegood asked exactly what the limit is on the monthly lease payments.

Councilwoman Sitnick asked Mr. Cowles about if he had any injuries with his indoor climbing wall. Mr. Cowles said that in his 1-1/2 years of operation, out of 4,000 participants only one person hurt their ankle when they jumped off the wall.

Councilwoman Sitnick said that this Council is always looking for ways to provide positive recreational, sport and social activities in the City for young people and this is one opportunity. She liked the idea of a park area on Wall Street, given the fact that Wall Street has a lot of hard surfaces.

Mr. Mark Rosenstein, business operator and property owner on Wall Street, spoke in favor of this project and felt it would be a great benefit for the City.

Upon inquiry of Councilwoman Sitnick, Mr. Cowles said that he hoped to have the wall built for this year's Bele Chere Festival.

Mr. Daniel Breen spoke in favor of the project.

Councilman Swicegood moved to express Council's intent to adopt the resolution at the next Council worksession on June 20, 1995, subject to the dollar amount being worked out. This motion was seconded by Councilwoman Sitnick and carried unanimously.

V. CONSENT:

Councilman Swicegood inquired about a possible conflict of interest on the resolution approving the sale of the $3,000,000 General Obligation Water Bonds. He asked if there be any conflict of interest on Wachovia receiving the award for the business and the head of the Water Authority working for Wachovia. After some discussion on conflict of interest, City Attorney Slawter stated that he saw no problem with City Council voting on the approval of the sale of the Water Bonds.

Mr. Ralph Bishop said that he was denied the opportunity to read the draft minutes of the June 6, 1995, City Council worksession until after they were approved by Council. He pointed out that the minutes are only drafts and that changes should be made before final approval. As a result, Mayor Martin moved to pull the June 6, 1995, minutes off the agenda to be considered at the next meeting. This motion was seconded by Councilman McClure and carried unanimously.

Councilwoman Field asked that the resolution reappointing Johnny Lloyd to the Civil Service Board be pulled off the Consent Agenda in order that it be voted on separately.

RESOLUTIONS & MOTIONS:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 23, 1995

B. RESOLUTION NO. 95-89 - RESOLUTION TO AWARD BID FOR A SKID STEER LOADER WITH CONCRETE PLANER AND TRANSPORT TRAILER

Summary: Staff recommends that award be made to the low bidder, E.F. Craven Company, Asheville, N.C., in the amount of $28,912 for a 'Case' Model 1845C Skid Steer Loader with an 'Alitec' Model CP16 Concrete Planer and a 'Hudson' Model HSE 14 Transport Trailer. The following bids were opened on April 25, 1995:

Vendor	Net Cost
E.F. Craven Co., Asheville, NC	$28,912.00
Viking Equipment, Asheville, NC	$31,650.34
Jones Tractor Co., Spartanburg, SC	$39,897.00
Corriher Tractor Inc., Lenoir, NC	$45,657.00

RESOLUTION BOOK NO. 22 - PAGE 303

C. RESOLUTION NO. 95-90 - RESOLUTION DESIGNATING THE SIGN KNOWN AS THE BROOKS-HOWELL HOME AND LOCATED ON SPEARS AVENUE AS A LANDMARK SIGN

Summary: Brooks-Howell Home is requesting landmark sign designation for their Spears Avenue arched entrance sign.

At the Historic Resources Commission meeting on May 12, 1995, the Commission voted 12-1 to recommend to City Council that the Brooks-Howell Home arched entrance sign be designated a landmark sign. They determined that the sign meets criteria A and B as set forth in the sign

ordinance for the following reasons: Criteria A - due to the number of tourists who come to Asheville to visit relatives and friends at the Brooks-Howell Home; Criteria B - it is a unique sign within the City of Asheville.

RESOLUTION BOOK NO. 22 - PAGE 305

D. **RESOLUTION NO. 95-91 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, ESTABLISHING THE INTEREST RATES TO BE BORNE BY THE CITY'S $3,000,000 GENERAL OBLIGATION WATER BONDS, SERIES 1995**

Summary: This resolution approves the issuance of $3,000,000 General Obligation Water Bonds, Series 1995. The bonds were sold on June 6, 1995. The award of the Bonds to Wachovia Bank of North Carolina, N.A., is confirmed.

RESOLUTION BOOK NO. 22 - PAGE 307

E. **RESOLUTION NO. 95-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDMENT TO AN AGREEMENT WITH WILLIAM B. FARRIS FOR REVIEW OF THE DRAFT UNIFIED DEVELOPMENT ORDINANCE**

Summary: The City has previously entered into an agreement dated March 22, 1995, with William B. Farris for consulting services in the review of the draft Unified Development Ordinance. That agreement provides that all services shall be completed by Mr. Farris on or before June 30, 1995. The parties have agreed to extend that deadline to July 31, 1995.

RESOLUTION BOOK NO. 22 - PAGE 309

F. **RESOLUTION NO. 95-93 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR JUNE 27, 1995, ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED NORTH OF BEAVERDAM ROAD, PURSUANT TO N. C. GEN. STAT. SEC. 160A-31, AND BEING THAT PART OF THE BEAVERDAM RUN PROPERTY NOT INCLUDED IN THE ANNEXATION AREA DESCRIBED IN ORDINANCE NO. 2038**

Summary: Beaverdam Run Homeowner's Association has submitted a petition for the annexation of all that portion of Beaverdam Run not previously annexed into the City of Asheville. The area petitioned for annexation consists of 34 acres and is adjacent to the existing corporate limits.

RESOLUTION BOOK NO. 22 - PAGE 310

G. **RESOLUTION NO. 95-94 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR JUNE 27, 1995, ON THE QUESTION OF ANNEXATION OF PROPERTY LOCATED AT BILTMORE PARK, PURSUANT TO PART 4 OF ARTICLE 4 OF CHAPTER 160A OF THE NORTH CAROLINA GENERAL STATUTES (GLEN OAKS 2 AT BILTMORE PARK)**

Summary: Biltmore Farms Inc. has submitted a petition for the annexation of an area located west of Overlook Road - Biltmore Park, Section 6. The area petitioned for annexation consists of 19 acres. This annexation is adjacent to Section 5 of Biltmore Park, but will not be contiguous to the City until the annexation of Section 5 becomes effective on August 21. Therefore, this petition will be handled as a satellite annexation.

RESOLUTION BOOK NO. 22 - PAGE 312

H. **RESOLUTION NO. 95-95 - RESOLUTION CALLING FOR A PUBLIC HEARING ON JUNE 27, 1995, FOR THE ADOPTION OF AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH THE DWELLING LOCATED AT 25 RIDGE STREET**

RESOLUTION BOOK NO. 22 - PAGE 314

I. **RESOLUTION NO. 95-96 - RESOLUTION APPOINT HAROLD ENLOE TO THE ASHEVILLE-BUNCOMBE WATER AUTHORITY**

Summary: Roy Harris has resigned as a member on the Asheville-Buncombe Water Authority leaving an unexpired term. This resolution will appoint Mr. Harold Enloe to fill Mr. Harris' unexpired term, term to expire September 30, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 315

J. **RESOLUTION NO. 95-97 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SUBSTITUTION OF TRUSTEE DOCUMENT AND THE CITY ATTORNEY OR ASSISTANT CITY ATTORNEY II TO EXECUTE A TRUSTEE ACKNOWLEDGMENT OF SATISFACTION REGARDING A 1938 DEED OF TRUST WHICH SECURED A NOTE FOR THE PURCHASE OF PROPERTY LOCATED AT OR NEAR THE INTERSECTION OF TAMPA AVENUE AND PATTON AVENUE**

Summary: This resolution would authorize the substitution of a trustee in a 1938 deed of trust and authorize execution of an acknowledgment of satisfaction of the debt secured by the deed of trust.

On August 18, 1938, the City of Asheville conveyed to Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, a small tract of property located at or near the intersection of Tampa Avenue and Patton Avenue, which deed was recorded in Deed Book 509 at Page 467 on August 26, 1938 in the Office of the Register of Deeds for Buncombe County.

Walter C. Wilson and wife, Kelly L. Wilson, and G. Wilbur Morris and wife, Lillian Morris, executed a deed of trust on August 25, 1938, which was recorded in Deed of Trust Book 367 at Page 194 on June 21, 1939, in the Office of the Register of Deeds for Buncombe County, wherein they conveyed an interest in the property located at or near the intersection of Tampa Avenue and Patton Avenue to Phillip C. Cocke, Jr., as Trustee, to secure a note in the amount of $250.00 given to the City of Asheville, with the City of Asheville being a third-party beneficiary under said Deed of Trust.

The City of Asheville has received a request from attorney Janese M. Baliles to substitute the City Attorney or Assistant City Attorney II for the trustee named in the Deed of Trust referred to above and for the substitute trustee to execute a Trustee Acknowledgment of Satisfaction for the deed of trust referred to above.

No record has been found of whether or not the note in the amount of $250.00 has been paid and satisfied in full. N. C. Gen. Stat. sec. 45-37(b) provides, however, that it shall be conclusively presumed that the conditions of any deed of trust securing the payment of money have been complied with or the debt secured thereby paid or obligations

performed from and after the expiration of fifteen (15) years from either the date when the conditions of the deed of trust were required by its terms to have been performed or from the date of maturity of the last installment of the debt or interest secured thereby.

RESOLUTION BOOK NO. 22 - PAGE 316

K. APPLICATION FOR A MASSAGE THERAPIST LICENSE FOR JOAN MARY HELD

Summary: Joan Mary Held seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Held's application and all pertinent requirements have been met.

L. APPLICATION FOR A MASSAGE THERAPIST LICENSE FOR MARY WORRELL

Summary: Mary Worrell seeks approval of her application to practice the profession of a massage therapist from City Council, consistent with Article III of Chapter 9 of the City's Code. City staff has reviewed Ms. Worrell's application and all pertinent requirements have been met.

Councilwoman Field moved for the adoption of the Resolution & Motion Consent Agenda. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2219 - BUDGET AMENDMENT RELATIVE TO THE VISIONING PROCESS

Summary: This budget amendment, in the amount of $5,000, appropriates the City's share of the visioning process. There is a $29,259 of uncommitted General Fund contingency available, leaving a balance after this action of $24,259.

Councilwoman Sitnick said that she appreciated the presentation by Mr. Luke last week and she wanted to make sure that the results of this visioning process is customized for Asheville. She wanted to make sure that the 150 people who are appointed to the Task Force represent a balance and represent the diversity in our community. Also making sure that the Task Force represents all interests. She requested that this consensus document, if it needs to have more than two public hearings and more than two or four or six days of Mr. Luke's time, that we are able to have that time in order to make the process right. This is $30,000 for a 6-15 page document. She would like to make sure that the result represents the diversity in Asheville.

ORDINANCE BOOK NO. 15 - PAGE 122

Vice-Mayor Peterson moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

ITEM TO BE CONSIDERED SEPARATELY FROM THE CONSENT AGENDA:

A. RESOLUTION NO. 95-98 - RESOLUTION REAPPOINTING JOHNNY LLOYD TO THE CIVIL SERVICE BOARD

Summary: The term of Mr. Johnny Lloyd expired on May 21, 1995. This resolution will reappoint Mr. Lloyd to a two year term, term to expire May 21, 1997, or until his successor has been appointed and qualified.

Mayor Martin said that there were two very qualified candidates for this appointment and the vote was not unanimous at the Pre-Council meeting when this item was discussed.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-98. This motion was seconded by Councilman Watts and by a show of hands carried on a 5-2 vote, with Councilwoman Field and Councilman McClure voting "no".

RESOLUTION BOOK NO. 22 - PAGE 317

VI. OTHER BUSINESS:

A. TUB GRINDERS

Councilwoman Sitnick requested the City Manager look into the cost and possibility of the City of Asheville purchasing tub grinders for sanitation vehicles.

Mayor Martin said that he previously has asked staff to look into this and he was told that it was not economical or advisable that the City purchase this.

City Manager Westbrook said that he have someone look into this for her.

B. CLARENCE BENTON - ASHEVILLE ADVOCATE

Mr. Clarence Benton spoke to Council about some erroneous information. He said that the Asheville Advocate has no intention in going out of business and they are not out of business. He said they have never shut their doors nor have they ever stopped the presses. He said the Asheville Advocate has been in operation for 9-1/2 years. He said the proposal Council considered relative to CityWorks and letting other papers be able to do some advertising was initiated by him some two years ago. He said that none of the other papers, including the Asheville Advocate, can run legal notices at this time. He also said that no for-free paper can carry legal advertising. He said that he is the only paper close to getting certified to handle legal notices. He said that he hoped to have his certification by December.

He hoped that the City would consider using the Asheville Advocate as one of the vehicles in getting public service announcements around.

C. BRADY BLACKBURN - SALE OF CITY DEVELOPMENT OFFICE

Mr. Brady Blackburn, Chairman of the Downtown Commission and Chairman of the Asheville Business District Coalition, presented Council with a Resolution to Asheville City Council concerning City Development activities from the Business District Coalition and 11 letters opposing the sale of the City Development office.

D. DANIEL BREEN

Mr. Daniel Breen commented on specific items from a list prepared by Councilwoman Sitnick.

E. RALPH BISHOP

Mr. Ralph Bishop, resident of the City of Asheville, stated that the Constitution of the United States gives him the right of redress from his elected representatives and that is his purpose for attending the Council meetings.

He said the more insults directed at him makes him only more determined to attend the meetings.

F. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of May 18-31, 1995: Betty Boyd (Sanitation), Tim Hensley (Water) and Linda Tighe (Public Works.

He also said the following claims have been received during the week of June 1-7, 1995: Kevin Childers (Finance), Debbie Chaney (Streets) and Annie L. Jackson (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

B. LAWSUIT

The City Manager said that the following lawsuit has been received by the City of Asheville on June 1, 1995: Haw Creek Community Association v. City of Asheville. The nature of the suit is a Petition for Writ of Certiorari and Complaint regarding site plan approval for Haw Creek Mews - Phase III.

He said the following lawsuit has been received by the City on June 9, 1995: In the Matter of the Foreclosure of the Deed of Trust of Pack Plaza Associates Limited Partnership. The nature of the suit is foreclosure.

He said these suits have been referred to the appropriate legal counsel for action.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:56 p.m.

Magdalen Bradham
CITY CLERK

MAYOR

Tuesday - June 20, 1995 - 2:00 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Joseph Carr Swicegood

RESOLUTION NO. 95-99 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LEASE AND EASEMENT AGREEMENT BY AND BETWEEN CLIMBMAX INC. WITH THE CITY OF ASHEVILLE FOR AN OUTDOOR CLIMBING WALL TO BE LOCATED ON THE EXTERIOR WALL OF THE WALL STREET PARKING GARAGE

Mr. Chip Scott, Festivals Coordinator, said that pursuant to City Council's request for further information regarding lease payments, the Finance Department and the City Attorney's Office have been in contact with all relative parties to establish a reasonable lease payment by and between the City of Asheville and ClimbMax. The original proposal lists a monthly payment of $10 a month for 12 months for a total yearly lease of $120. Upon further discussion, ClimbMax is currently proposing $85 per month for a yearly total of $1,020. Upon review of both the current lease agreement between the City and Wall Street Limited Partnership and the limitations of the non-tax exempt uses and revenues prescribed by the arbitrage agreement of the financing for the purchase of the Wall Street and Rankin Avenue garages by the City, a lease payment not to exceed $2,000 per month is allowable for any other non-tax exempt uses and revenues.

Based upon the current lease agreement between ClimbMax and the Wall Street Limited Partnership, the monthly lease payment for the indoor ClimbMax space is $800 per month. ClimbMax currently is occupying a total of 2,440 square feet. The cost per square foot is equal to $.33. The total square footage for the proposed outdoor climbing wall is 918 square feet. Using these figures, a monthly lease payment of $300 (818 x $.33 = $302.94) for a yearly total of $3,600 would appear fair for interior space serviced by heating, cooling, electrical and plumbing systems. However, as this lease is regarding the use of exterior wall space which is not typically a leaseable space and it is extremely unlikely that any other business would become a tenant of such space, the City Development Office recommends a monthly payment of $150 for a yearly total of $1,800.

Mr. Stuart M. Cowles, President of Climbmax Inc., urged Council to consider the weather conditions when determining a monthly payment rate for use of an outdoor climbing center, i.e., too cold to climb the wall or you can't climb the wall in the rain. He anticipated his projected revenue would be $226.50/month (151 climbers at $1.50) and since they will be utilizing the special events on Wall Street during the year (including Bele Chere with an anticipated revenue of $6,000), he anticipated a yearly revenue from the outdoor wall at $8,718.

Upon inquiry of Vice-Mayor Peterson about the revenue the City will receive from the lease, Audit/Budget Director Bob Wurst said that the revenue would go to the Parking Division Fund, not to Wall Street Limited Partnership.

Since this is a new venture which brings something unique to Asheville and since this is an opportunity for Council to help a small

businessman, Councilwoman Sitnick suggested $100/month for the first year and at the end of the first year, Council could re-evaluate the lease and see if it needs to be adjusted for the next year.

Vice-Mayor Peterson felt the recommended amount of $150/month was a fair price.

Councilwoman Sitnick moved to adopt Resolution No. 95-99 with a monthly lease payment of $100.00 for the first year (of the four year lease agreement) with the rates to be renegotiated annually thereafter, not to exceed 12% of the gross monthly revenues from the outdoor climbing wall. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 318

FESTIVALS UPDATE

Mr. Ben Wax, Superintendent of Recreation, said that the City of Asheville is involved in 13 festivals and special events during the remainder of the calendar year July-December 1995 in which the City provides technical and logistical support.

Staff is recommending that Light Up Your Holidays festival be dropped for this year due to lack of funding and community interest. It is our intention to continue with the holiday lighting downtown (but not be involved in the kick-off ceremony and no staff person to coordinate the events) and continue our support and coordination of First Night Asheville. Most of the Light Up Your Holiday events will be independently produced by the community but not through the auspices of the Light Up Your Holiday Coordinator.

Also, staff is requesting clarification by City Council about whether or not the City should be involved with Discovery Day.

Upon inquiry of Mayor Martin, Mr. Wax said that the corporate community is already involved.

Councilwoman Sitnick said that she did not want to see Light Up Your Holidays fail for lack of support. We really need to support positive things and festivals is one of them. She suggested that if we withdraw our funding and the community does not pick it up, that we re-evaluate it for possible future funding.

When Vice-Mayor Peterson suggested money come out of the Bele Chere proceeds for other festival funding, Mr. Wax said the $5,000 funding for Discovery Day is coming out of the Bele Chere proceeds.

Mr. Chip Scott, Festivals Coordinator, said that last year Buncombe County participated in Discovery Day by funding $3,000.

Councilwoman Sitnick suggested some way to connect the school program relative to the prom night contract to First Night Asheville. She hoped there would be some activities geared toward the teenagers at First Night Asheville.

Upon inquiry of Vice-Mayor Peterson, Mr. Scott said that Bele Chere proceeds from last year were approximately $47,000.

Councilwoman Field moved to participate in the Light Up Your Holidays festival only as it relates to the holiday lighting downtown

and to continue the City's involvement of no more than $5,000 with Discovery Day. This motion was seconded by Councilman Watts and carried unanimously.

Councilman Watts instructed the City Manager to make sure that the GOOMBAY festival this year is not as crowded as last year.

CITY SCHOOLS AGREEMENT

Mr. Irby Brinson, Interim Director of Park and Recreation, said that for almost 20 years the City of Asheville and the Asheville City Schools have had an excellent working relationship which has been a tremendous benefit to both parties and especially to the citizens of Asheville. Over this period of time the Parks and Recreation Department has used Asheville High School for adult basketball, Asheville Middle School for adult volleyball, Vance Elementary School for adult softball and youth baseball, Hall Fletcher Elementary School for youth basketball, and other school sites for summer playground locations and after school programs. In return, the City has installed playground equipment at Ira B. Jones, Hall Fletcher, Vance, and Isaac Dickson Elementary Schools, assisted in clearing banks in Asheville High, constructed ballfields at Vance and Hall Fletcher Elementary School, and provided space for their maintenance operations housed in the basement of the Municipal Building. In addition, we currently co-sponsor a very successful after school and day camp program which is operated in all the City elementary schools.

Beginning July 1, 1995, the City School Board recently approved charging a $5 per hour utility maintenance fee for use of the City School facilities by our adult athletic programs. This fee represents approximately a $5,000 expense to the Parks and Recreation Department and will result in increased entry fees which will be passed along to teams participating in our leagues. In addition, the City agreed to pay $8,000 toward refinishing the floors at Asheville Middle School. Both the City of Asheville and the City Schools have benefited from this relationship of joint use free from restraints of financial accountability for many years. It is counter-productive for both sides to suddenly begin charging each other for services and use of facilities. Use of City School facilities has allowed the Parks and Recreation Department access to facilities that the City taxpayers have already funded. The City Schools have benefited by the Parks and Recreation Department providing equipment and staff in areas where they are lacking, therefore reducing their need to purchase specialized equipment and services.

It was the consensus of Council to have City staff negotiate an agreement with the City Schools which will allow for joint use of facilities, equipment, and staff without fees being assessed by either party.

CITY HALL SEVENTH & EIGHTH FLOOR RENOVATIONS

Mr. Irby Brinson, Interim Parks and Recreation Director, said that the Parks and Recreation Department staff has requested from Cort Architectural Group an estimate in regard to renovations to the 7th & 8th floors of City Hall. There have been recent changes to the Building Code which may allow for such renovations. Based upon previous work that they have done, the estimated cost for completely renovating this space would be $64.50 per square foot. Currently there is approximately 8,700 square feet on the 7th floor and 6,850 square feet on the 8th floor. The estimated renovation cost, based upon the above, would

result in a construction contract of $1 Million. Cort recommends that a 20% overhead be included in this price for design fees, furnishings, and contingency. Therefore, the total estimated price would be approximately $1.2 Million. In addition, if City Council is interested in pursuing this matter, Cort recommends that a renovation study be commissioned in order to better define the current Building Code restrictions, existing system capabilities, conceptual floor plan, and budget cost projections.

Extensive problems currently exist with the roof and exterior walls of City Hall. For the past few years, damage has occurred to the 7th and 8th floors as well as other floors of City Hall due to room leaks and deterioration of the mortar from the bricks on the exterior wall. These problems need to be addressed prior to any renovations to the 7th and 8th floors. Also, the 7th and 8th floors are being used for storage areas for departments within the building which include Planning, Finance, Legal, Parks and Recreation and others.

Upon inquiry of Mayor Martin about the cost of roof renovation, Mr. Brinson said that it would cost approximately $1 Million.

When Councilwoman Sitnick asked about the $64.50 square foot renovation figure, Councilwoman Field responded that new construction figures run $100-120, and an historic building renovation normally runs $80.00 per square foot.

Mr. Brinson explained, as requested by Councilwoman Sitnick, about the use of Cort Architectural Group for the estimated renovations to the 7th and 8th floors. He said that Cort was the architect used when the City Hall building was renovated in 1991 and he had current figures. Mr. Brinson did state that Request for Proposals was sent out for the 1991 renovations. The City Hall renovations cost $4.7 Million.

Councilwoman Sitnick felt that the City Hall 7th and 8th floors were unsuitable for storage since it actually ties up expensive real estate space. However, she agreed that the roof renovations should come before any renovations to the other floors.

Vice-Mayor Peterson expressed concern over why Cort, back in 1991, didn't stress to the City to fix the roof first, before any floor renovations were done. The City has known for over 10 years about the problems with the roof.

When Councilman Watts asked about if the roof renovation project could be phased in, City Manager Westbrook said that staff would like to come back to the Council with a plan to fix the roof in terms of phasing and financing. Mr. Westbrook did state, however, that the Municipal Building renovation is a high priority and Council will need to make a determination on how they want to proceed.

Vice-Mayor Peterson suggested using the 9th floor of City Hall for storage. Mr. Brinson responded that there was no elevator access to the 9th floor.

Councilwoman Sitnick said that the City should look to local businesses when they replace the tiles on the roof. She suggested this would be an excellent student group project.

It was the consensus of Council that the City Manager report back to Council with plan to fix the roof in terms of phasing and financing prior to any renovations occurring to the 7th and 8th floors.

CONSENT AGENDA

Consideration of Bids relative to a Refuse Collection Vehicle

Summary: Staff recommends that award be made to the low bidder, Southern Truck Service, Charlotte, N.C., i the amount of $118,996 for a 1995 'Crane Carrier' model 'LET Tandem' cab and chassis with a 'Heil' model 5000-20 hydraulic packer body and a 'Barker' model 602 pumping unit. The following bids were opened on May 30, 1995:

Vendor	Net Cost
Southern Truck Service, Charlotte, NC	$118,996.00
Heil Environmental Ind., Chattanooga, TN	$121,307.00
Heil Environmental Ind., Chattanooga, TN (alternate bid)	$122,893.00
White GMC Trucks, Hickory, NC	$126,168.26
White GMC Trucks, Hickory, NC (alternate bid)	$124,937.26

Budget Amendment relative to Funds Raised by Recreation Center Organizations

Summary: This budget amendment, in the amount of $39,100, provides "bookkeeping" for funds raised by Recreation Center organizations and used by them for special events or other center activities.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER ITEMS:

School, Parents Panel

Councilwoman Sitnick said that because of the increasing concerns on the part of parents of school aged children highlighted in recent media accounts, she requested that the Mayor and City Council convene a panel of parents to address the Council at the next available worksession. She suggested the following list to be added to at City Council's discretion: Will Annarino, H. K. Edgerton, O. T. Tomes, Dwight Mullen, Dolly Mullen, Sylvia Montgomery, Yolanda Conners, Sharon Arrington, Joe Webster, LaVern Justice Hart, Marsha Bate, Robert Edgerton, Marilyn Bass, and Marshall Logan.

It was the consensus of Council that Councilwoman Sitnick and Councilman McClure work on this issue.

Art Museum Banners

Vice-Mayor Peterson requested that the Art Museum at Pack Place be allowed to put up "tastefully done" banners advertising art shows within a two block radius for more than the permitted seven day period of time.

Mayor Martin felt that the new unified development ordinance might address that problem.

Councilwoman Field and Councilman McClure agreed with Vice-Mayor Peterson's suggestion.

Vice-Mayor Peterson moved that the Planning and Zoning Commission be requested to make a recommendation to the City Council regarding an amendment to the sign ordinance providing for elimination of the seven

day limit on wind signs for community festivals and events as set forth in Section 30-9-4 F of the City Code. This motion was seconded by Mayor Martin and carried unanimously.

City Council Community Meetings

Councilwoman Sitnick asked that the City Council community meetings start taking place again after July 1. She suggested meeting at senior citizen centers.

Business Round Table Meeting

Councilwoman Sitnick suggested that the Mayor appoint a three member committee of himself, and two Councilmembers, to meet with the top ten businesses in our community to address any of their concerns.

She also suggested a round table meeting inviting all large and small businesses, builders, developers, and appropriate City staff to answer questions and concerns raised.

Mayor Martin suggested they meeting with the City Manager first for his suggestions on how to open up the lines of communication.

Steering Committee for Visioning Process

Mayor Martin said that he has recently been made aware that the Steering Committee for the Visioning Process will be meeting on Thursday, June 22, 1995, and the City needs to make their two appointments. He said that at Pre-Council on June 13, 1995, City Council agreed to appoint Dolly Mullen as the City's 1/2 person to serve on the Steering Committee. He said that the Council needs to appoint two more members. He suggested the names of O.T. Tomes and Willie Mae Brown.

Councilman Watts suggested the name of Joe Webster.

Councilman McClure felt the Council should see who the County, Chamber and Community Foundation appointed before making their two appointments.

At the request of Council, City Clerk Burleson obtained a list of the following names already appointed to the Steering Committee: James B. Banks, Carl Bartlett, Robert F. Burgin, Philip Carson, Jack Cecil, Ernest Ferguson, Jay Garner, Wanda Greene, Patsy Keever, Clark Olsen and Patricia Smith.

Vice-Mayor Peterson stated that he was not aware that the first meeting of the Steering Committee was going to be in just two days and was not prepared to submit any names at this time. After finding out who the members of the Steering Committee were, he was distressed by the make-up of Committee. He felt the City was not given adequate time to make such important appointments and was prepared to withdraw the City's $5,000 previously approved for this project.

Councilwoman Sitnick was concerned over the lack of media coverage for the too few public hearings. She asked for a time schedule for this visioning process.

Mayor Martin and Councilwoman Sitnick were both opposed to any political or elected person on the Steering Committee - for example, Carl Bartlett, Mayor of Black Mountain, and Patsy Keever, Buncombe

County Commissioner. They felt the appropriate place for those type persons should be on the 150 member Task Force which will be appointed by the 15 member Steering Committee.

Councilwoman Sitnick suggested Harold Holcombe.

Vice-Mayor Peterson felt that Mayor Martin knew of the Committee make-up and date of their first meeting prior to this meeting and felt the Mayor should have informed the Council members long before now. Mayor Martin stressed that he had no prior knowledge of the Committee make-up and he was only recently told of their first meeting date. Vice-Mayor Peterson felt that if the City Council is going to be kept in the dark, they should re-consider funding this project.

Even though the Committee make-up only includes one black female (the City's 1/2 appointment), Councilman McClure felt that the City's appointments should not be made to make up the balance of minorities and even though City Council feel that political persons should not be appointed to this Steering Committee - they have and we have no control over that. Therefore, if the City doesn't appoint a Council member, we lose the City's control. He stressed that we need to have some reasonable control of the input.

It was the consensus of Council to make the City's two appointments to the Steering Committee for the Visioning Process at Council's next meeting and have representation at the first Steering Committee on Thursday, June 22, to express City Council's concern.

It was the consensus of Council to have Mayor Martin and Councilman McClure attend the Steering Committee meeting on behalf of the City of Asheville. Councilwoman Sitnick said that she would attend as well.

Water Agreement and MSD Agreement

Councilman McClure asked for Council's support in asking the City Manager and staff to look at options and alternatives to the Water Agreement and the agreement with MSD.

Councilwoman Field felt that changes to the Water Agreement will have repercussions on the Regional Water and Sewer Authority.

Councilwoman Sitnick suggested researching what type of impact it would have on MSD if the City refused to do their billing.

It was the consensus of Council to have the City Manager prepare a report and bring it back for Council review. City Manager Westbrook said that this comprehensive report would undoubtedly take some time and he would report back as quickly as possible.

Ralph Bishop

Mr. Ralph Bishop asked if City Council was exempt from the City Charter provisions. Mayor Martin responded that they were not.

Closed Session

At 3:45 p.m., Councilwoman Field moved to go into closed session to discuss location or expansion of industries or other businesses in the area. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 4:30 p.m., Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Councilman McClure and carried unanimously.

At 4:55 p.m., Councilman McClure moved to go into closed session in order to preserve the attorney-client privilege. This motion was seconded by Councilwoman Field and carried unanimously.

At 5:20 p.m., Councilman McClure moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:20 p.m.

Magdalen Bamberger
CITY CLERK

MAYOR

Tuesday - June 27, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldrum; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Mayor Martin gave the invocation.

I. PROCLAMATIONS: None

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE 1995-96 ANNUAL OPERATING BUDGET

ORDINANCE NO. 2220 - ORDINANCE ADOPTING THE BUDGET AND FIXING THE TAX RATE OF THE CITY OF ASHEVILLE FOR FISCAL YEAR 1995-96

Mayor Martin opened the public hearing at 5:10 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Audit/Budget Director Bob Wurst said that this ordinance reflects the recommended General Fund budget in the amount of $48,318,277, as presented to the Council on April 25, 1995. He said the Asheville-Buncombe Water Authority and the Buncombe County Board of Commissioners have approved the Water Operations Fund budget in the amount of $16,633,603, which is incorporated in our budget. He said the Transit Fund is included at full requested funding of $2,078,700. He then summarized the other major operating funds of the City. The ordinance as recommended sets the tax rate at $.57/$100 valuation (as in the current fiscal year with no increase). He said that there is no use of fund balance in balancing this budget for the coming year. He explained that the budget does include approximately $700,000 for the City's Pay Plan. He said the budget does reinstate funding for streets and sidewalks. We presently estimate that we will do this summer 4.25 miles of street resurfacing and 5,400 linear feet of sidewalk reconstruction.

He said the budget, as being presented, includes the funding at the current levels for all the outside agencies.

Councilman McClure noted that in this budget, Council not only put money in for stormwater construction materials, but for some actual work to be done. He noted that we are able to fund this without the $5 user fee that has been discussed. City Manager Westbrook said that we will be adding a crew of three plus $82,000 in operational costs for this project.

In response to Councilman McClure, Mr. Wurst said that the City will have about a $7 Million General Fund fund balance at the end of this fiscal year. He said we are not projecting to use any in the budget for next year. Assuming everything comes in well during the year, we should be able to add additional amounts to the fund balance.

Mayor Martin asked Mr. Wurst to explain the importance of the City retaining its AA bond rating. Mr. Wurst did just that, saying that he felt the $7 Million fund balance will provide enough reserve to keep our current bond rating, and we expect that to grow more over the next few years. But, right now, he thinks it's probably adequate, He felt that this budget is fiscally responsible and this budget will maintain our bond rating barring unforeseen occurrences.

Vice-Mayor Peterson congratulated the City Manager and his staff on the budget. He said that four years ago they were looking at a 7-cent tax increase, which they voted against. He said that this Council has cut taxes by two cents and still has able to put more money into streets and other projects. He felt Council has streamlined government without cutting services.

Councilwoman Sitnick said that "as far as I can see, other than a couple of little commas and dots here and there, we've got a pretty fat free budget." After reading a section in the ordinance which authorized the City Manager to expend up to $20,000 from the general contingency fund for an emergency, she asked what would constitute an emergency. Mr. Westbrook responded that a flood, fire emergency or a blizzard might constitute an emergency.

Mr. Jerry Rice, representing Taxpayers for Accountable Government, asked if this budget has been balanced on a 95% tax collection rate. Mayor Martin responded that it had because that was the collection rate last year. Mr. Rice then said that as of June 26, 1995, the collection rate was 96.97% and he wondered if it would be appropriate to reduce the tax rate to $.56/$100. He said that if Council adopted this budget at the 96.97% collection rate, the City will have a windfall of $367,000 and he felt that should be given to the taxpayers. Mayor Martin responded that Council approves the budget on the collection rate of the last year, regardless of what the tax collection rate is at the present time. Mayor Martin explained that during the year there are things that come up that are unexpected, so before we do a tax decrease, we need to be sure that we can meet all of our current obligations. And, if, in fact, the City does have a windfall, they will deal with it next year.

Vice-Mayor Peterson said if we do have a surplus, the City has plenty of things to spend the money on - City Hall roof, police and fire station, and street and sidewalk repairs. He stated that this Council is trying to spend money on things that they know they'll need in the future.

The following outside agencies funding requests were discussed individually. The Council Committee recommendations are shown below.

Councilman Swicegood said that all the outside agencies provide a good service and it was hard for him to cut any of their funding. However, the money that is cut will go into a stormwater fund or street and sidewalk repairs.

Councilwoman Field said that the Committee could not come to consensus on all the agencies and they felt the whole Council should participate in the process. Her recommendation included funding the majority of the agencies at the recommended level that the City staff had come up with, except for the Buncombe County Drug Commission and the Community Loan Fund. Both of those organizations were put on notice last year that we were going to give them some money last year but that this year we would not continue with their funding. The Drug Commission

does some great jobs but they are asking for $13,500 and they have several million dollars coming from federal funding. She felt that Council had clearly directed them to find some other sources of funding.

Asheville Area Chamber of Commerce

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
105,000	90,000	90,000	90,000	90,000

Councilwoman Sitnick said that all of the eight agencies that requested funding were either cut a percentage, cut in half, or cut out completely except for the Chamber of Commerce. She asked members of the Council Committee why they didn't cut the Chamber of Commerce as well.

Councilman McClure said that the $90,000 is to cover the cost of operation of the visitors center, which is an extension for the City of Asheville that the Chamber of Commerce is running. The Committee felt the center was valuable because of tourism.

Councilman Swicegood also said that last year he was in favor of not funding the Chamber at all. However, under new leadership, changes have been made and he now feels comfortable with this funding.

Upon inquiry of Councilwoman Sitnick if $90,000 was total funding for the visitors center, Councilwoman Field replied that it was only the City's share. Councilwoman Sitnick then asked how much the County participated in the funding for the center. She said that since the Asheville taxpayer pays City and County taxes and they seem to pay for a lot of these things double, she just wanted to make sure that the Asheville taxpayer is not paying for this whole thing - that this is an equitable amount for the City of Asheville to be paying.

Shortly thereafter, Mr. Wurst provided Council with a copy of the Chamber's financial statement. Councilwoman Sitnick again said that we are cutting every other agency that has requested funding, except for the Chamber. "I don't mean to sound elites about this, but we're not cutting the organization that probably has more funding than any of the others."

Mr. Wurst said that the $90,000 is our share of the convention and visitors bureau and the visitors center.

Councilwoman Field believed that what the Chamber does is come to the City and ask us to fund the conventions and visitors bureau and the visitors center. Then they go to the County and ask them to fund some other element or other department, so that we are not funding the same things.

Councilwoman Sitnick then discovered, from the financial statement, that the Convention & Visitors Bureau was requesting $100,000 and the Visitors Center was requesting $45,000, totaling $145,000; however, their total request for both functions to the City was $105,000.

Councilwoman Field moved to fund the Chamber of Commerce $90,000. This motion was seconded by Councilman Watts and carried on a 7-0 vote.

Asheville Area Rescue Squad

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
25,000	22,500	22,500	16,875	11,250

Upon inquiry of Councilwoman Field, Fire Chief John Rukavina explained that historically the Rescue Squad provided services that the Asheville Fire and Police Department's did not and the contract with the City has been for services for both departments. Those departments have advanced to the point where the primary services that the Rescue Squad provide are search and rescue, assisting the police department in recovery of possible stolen items that might have been put in the river and a lot of the work they do is back-up emergency transportation for Buncombe County EMS. He believed that Buncombe County is now billing users of the Rescue Squad service at Buncombe County's customary rate for ambulance service. They still provide some support to the Fire Department in extraction of people trapped in car accidents and in providing lighting at emergency scenes. Their primary role at this point is essentially being a back-up emergency transportation for Buncombe County.

Upon inquiry of Councilman Swicegood, Mr. Wurst said that Buncombe County is charging $90 per run and is remitting the money to the Rescue Squad. Mr. Wurst thought that the previous funding had been through United Way, but that had been dropped and now that funding has been picked up by the revenue from the $90 per trip charge.

Councilwoman Field moved to fund the Asheville Area Rescue Squad $22,500. This motion was seconded by Councilman Watts and defeated on a 3-4 vote, with Vice-Mayor Peterson, Councilwoman Sitnick and Councilmen McClure and Swicegood voting "no".

Councilman Swicegood moved to fund the Asheville Area Rescue Squad $11,250. This motion was seconded by Vice-Mayor Peterson and carried on a 5-2 vote, with Mayor Martin and Councilwoman Sitnick voting "no".

Asheville-Buncombe Community Relations Council

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
67,000	67,000	67,000	33,500	33,500

Councilman Swicegood didn't feel like it was the taxpayer's obligation to support these agencies. His standpoint was that the City needs to get back to basic government.

Councilman McClure, agreeing with Councilman Swicegood, felt it wasn't fair to cut the funding out completely for all agencies since they have received funding for a number of years. However, he too felt we needed to get back to basic government and one unanimous commitment made by committee was that any savings will go into stormwater drainage problems and into sidewalks. We want to start providing services back to our taxpayers.

Councilwoman Field said that the Community Relations Council is something that was generated by the Asheville City Council. She felt it did an excellent job of providing some services that are important within our community and in her opinion, they deserve to be funded at the level of $67,000.

Councilwoman Sitnick was interested to know what the proportion is of the City and County funding and how it breaks down. She said the Community Relations Council provides a service for this community that's rather an intangible. She chairs the Mayor's Stormwater Committee and fully supports the savings going to stormwater drainage repair. She also chairs the Mayor's sidewalk committee so she is aware of the need for sidewalks. But, she also knows the need for citizens in this community who experience bigotry, intolerance, racism and hatred to have an unaligned, neutral place to go where they don't feel intimated to report those incidents and to have a group of people who are committed and dedicated to helping them deal with those kinds of situations that exist in a plentiful fashion in this community. So, she agreed with Councilwoman Field that the Community Relations Council really serves a purpose that no other organization, private or public, serves and she would vote for full funding. Also, her efforts to be efficient and conservative are well known on this Council and while she would favor diminishing monies to outside agencies, she felt that cutting an agencies allocation in half, all at once, is pretty shocking to that agency's budget. She felt that perhaps we can do this in a more reasonable fashion and maybe cut it a percentage this year and then another percentage next year, while encouraging those agencies to find alternative funding. She couldn't support funding them $33,500. Perhaps she could support a percentage reduction, otherwise she would have to vote for $67,000.

Mayor Martin said that the Community Relations Council requested $92,000 from Buncombe County and the County's recommended amount was $88,882. Councilwoman Field believed that the County adopted their annual budget with the recommended amounts.

Councilman Swicegood noted that approximately 75-100 outside agencies request funds from Buncombe County and he definitely didn't want the City to get into that kind of situation.

Mayor Martin said that the City opted to support the Community Relations Council several years ago to resolve conflicts. He felt it does fulfill a valuable need in our community. He did see room for minor cuts, but would hate to see the City cut them to the point that they would have to lay off staff.

Vice-Mayor Peterson moved to fund the Asheville-Buncombe Community Relations Council $33,500. This motion was seconded by Councilwoman Swicegood and failed on a 3-4 vote, with Mayor Martin, Councilman Watts, and Councilwomen Field and Sitnick voting "no".

Councilwoman Sitnick moved to fund the Asheville-Buncombe Community Relations Council $60,000. This motion was seconded by Councilman Watts and carried on a 4-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "no".

Buncombe County Drug Commission

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
13,500	13,500	0	0	0

Ms. Barbara Zimmerman, Education Coordinator for the Buncombe County Drug Commission, briefed Council on some of the programs of the Drug Commission and urged Council to continue it's funding support. She read a letter from Gayland Erlickman, health educator with the Buncombe County Health Department, which described some of the programs the

Health Department and the Drug Commission co-sponsor. She also had a letter from Chris Sands, an intern, who wrote about the success of the Commission's substance abuse prevention program for 3rd and 4th graders at Jones and Randolph schools.

Ms. Fern McCrimmon, Interim Executive Director of the Health Adventure, talked about how the funds were used from the Drug Commission. She said that funds from the Commission and the Buncombe United Community Based Incentives ("CBI") Program, has enabled them to reach between 14,000-15,000 kindergarten through 5th grade students educating them about the risks and the dangers of alcohol and tobacco. She certainly hoped that the City will continue to support the Buncombe County Drug Commission.

In response to Councilwoman Sitnick about how much funding the Health Adventure receives from the Drug Commission, Ms. McCrimmon said that this year they will get $4,100 - which is $1.00 per student. It costs the Health Adventure $7.50 per student to be able to provide programs, but the Health Adventure raises the additional funds through other sources.

Mr. Bruce Two Eagles stated that, had it not been for the grant from the CBI program last year, he would not have been able to reach children on a national level in his educational series posters dealing with substance abuse. He stressed how important education is for young children and urged Council to continue funding this worthwhile organization.

Ms. Becky Stone, Director of Target Theater, explained the importance of the Target Theater for the education of teenagers regarding substance abuse and HIV education. This year the Theater will request half of their budget from the Drug Commission ($7,500) and stressed that a high number of youth are being able to be reached with the support and funding of the Drug Commission. She urged Council to fund the Commission and continue it's support of the youth.

Mr. Tim Sinatra, representing the Salvation Army Boys and Girls Club, spoke about how the Drug Commission financially backed a program called the Adventure Corp. They were able to reach 300 at-risk youth last year. The program is basically a drop out prevention program and deals with many issues facing youth. Through the Commission's start-up funding the Salvation Army is now able to establish this program on an annual basis.

Ms. Elizabeth Pendleton, Drug Free Workplace Coordinator at the Buncombe County Drug Commission, explained to Council about the drug free workplace program which offers a very important service to the small business community in Asheville.

Mr. Bernace Roberts, Chairman of the Buncombe County Drug Commission, gave Council additional figures which showed the wide range of participation that the community is involved in, in terms of the work the Drug Commission is doing. He urged Council to continue the Commission's funding.

Mr. Vaughn Ownbey, Executive Director, answered various questions about the two leased kiosks and their locations - one at the Biltmore Square Mall and one at the Health Adventure. He noted that the kiosk at the Health Adventure is the most popular and used item in the Health Adventure. Councilwoman Sitnick suggested placing the other kiosk,

currently located at the mall, might have a better impact at a middle or high school.

Upon inquiry of Councilman McClure, Mr. Ownbey also responded to questions relative to the Commission's library and 174 card-holders, which are substance abuse professionals, teachers, etc. They are just now beginning to measure the impact of how many people are affected by the information that's extracted from the resource center. He said the refurbishment of the library is through a federal grant of about $7,000/year - adding materials to it continually. He did state that videos run from $300-$900 each. He also stated that an initiative has begun this year relative to increasing their card-holders base.

Ms. Glenda McDowell urged Council to consider funding the Drug Commission.

Mr. John Hayes, Director of Hillcrest Enrichment Program, voiced his opposition to the funding for the Drug Commission. He didn't feel they have justified the $2.6 Million they have received over the past four years. He felt the community was involved in getting the money, but not involved in the implementation of programs. He felt they overlooked the community after they got started.

Councilwoman Field said that the Commission was informed last year when Council cut them back from their requested $30,000 to $13,500, that City Council would not fund them this year.

Councilwoman Sitnick said that "I received 43 phone calls requesting that we not fund the Buncombe County Drug Commission, and every one of those 43 people gave me their names. What I would like to recommend to Council that we do, at a later date, is that we look at some of the local funding programs that the Drug Commission participated in, like the Health Adventure, like Bruce Two Eagles' posters, and evaluate them as to their impact and effect. And, perhaps decide at a later date and after we have looked at the budget and seen whether we have any discretionary funds, to perhaps contribute to some of the best and most effective programs that are being sponsored by the Drug Commission. The Target Theater is one of them. I've been a witness to three of their performances. They're riveting, they're goose-bump producing and I believe that they're necessary. We have a severe, serious, substantial drug abuse and alcohol abuse problem in our community and if we don't begin to abate it with our young people then I dread to fear what our future is like. And, so, I would ask Council to consider, at a later time, the possibility of evaluating some of those local programs and not just abandoning them, but supporting them with money and with recognition."

Mayor Martin said when we started the Buncombe County Drug Commission a number of years ago, it was because we recognized that we had a severe drug problem, that it was growing and we needed to address it in a community-wide effort. Since that time, perhaps we have become inured to the problems that present themselves. He, too, has received calls from the public urging Council not to fund the Commission, but he sees a lot more funding of programs, other than those that those people were calling about. He felt Council sends a poor message when we cut out funding or support completely. When you are able to reach children, regardless the number, in an education effort, he felt it was worthwhile to give it some support. While he understands we need to save money and streamline budgets, he felt we also need to send a message to our community in what we support and what we don't support.

Councilman Swicegood moved not to fund the Buncombe County Drug Commission. This motion was seconded by Councilman McClure and carried on a 6-1 vote, with Mayor Martin voting "no".

Community Arts Council

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
27,000	27,000	27,000	13,500	13,500

Ms. Linda Wilkerson, Arts Alliance, stated that the funds granted to organizations in the community are not hand-outs - they are investments in people. She gave examples of how the City is getting something for the money they invest. She felt it makes sense for Council to continue to support the area of referral and resource in the arts community because it helps us and all of our affiliate organizations leverage funding that gives back to the community.

Councilwoman Field said that she is the Council liaison to the Arts Alliance Board so she is privy to the amount of work they do in the community. They get a tremendous amount of grant money from the state and from larger organizations to help emerging artists in this community to help with teaching programs that have proved very successful. She said the $27,000 requested by the Arts Council is for the administration of the Arts Council - those are things that they cannot get grants for. She felt this was a very appropriate allocation for the Arts Council.

Councilman McClure said that this is not a matter of whether it's a worthy cause or not because he felt all the outside agencies are worthy causes. In his opinion, it is a priority of placing funds. He said that he takes his personal time to assist in their fund drive and down-sizing on contributions is a trend nation-wide and this is a trend that we are going to have to start.

Councilman Swicegood said that out of all the outside agencies that have requested funding, he felt like this was one of the best organized and hard-working groups. It was hard for him to cut money out on any of these groups, and that was why his recommendation was to cut only half from the Arts Council.

Councilwoman Sitnick said that someone talked "about an investment and we have, as a Council, an economic development policy and we have chosen to use our funds in various ways for economic development. Given the fact that one of the four major economic development activities occurring in this City right now is Hand Made in America. I wonder whether or not cutting this fund, quite so much, is necessary. While I would agree we need to prioritize our monies, and I wish we had gobs of it to do everything we wanted to. We pay a lot of attention, and we give a lot of emphasis to the three r's, and that's an expression of our minds. Arts are an expression of our hearts, arts are an expression of our spirit. And, when I look at the $147,000 in federal funding that went into that, what shall we call it, the scrap metal configuration, that thing put in front of the Federal Building right now, I am absolutely amazed, appalled, shocked that we are spending that kind of money on that particular kind of art. I think art is very important. I think it brings communities together. And so, again while I realize we have priorities that are infrastructure in nature, and basic services in nature, I would really rather see being less shocking in our decline of monies here, and recommend that we give the Arts Council $20,000 this year, instead of $13,500, so that their boat is not rocked quite as much."

Councilwoman Sitnick moved to fund the Community Arts Council $20,000. This motion was seconded by Councilwoman Field and motion carried on a 4-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "no".

Community Loan Fund

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
35,000	27,000	0	0	0

Councilman Swicegood said that the Committee felt like this is a function that a bank can take care of.

Councilman McClure also said that the Community Loan Fund is also being expanded to Buncombe County and the County is going to be involved.

Councilman McClure moved not to fund the Community Loan Fund. This motion was seconded by Councilman Swicegood and carried unanimously.

Crime Stoppers of Asheville

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
21,823	21,823	18,000	0	0

Councilwoman Field said that she is the City Council representative on the Crime Stoppers Board. She said that they had reduced their request slightly from their 1994/95 request and she agreed that the funding, not only for Crime Stoppers but for all the other agencies, should be reduced gradually.

Upon inquiry of Councilwoman Sitnick, Councilwoman Field said that the Crime Stoppers, in addition to helping solve crimes, do education programs in the schools. The County's participation is in-kind services with one staff position from the Sheriff's Department and office facilities, which includes telephone service and a 24-hour answering service.

Councilman Watts supported Crime Stoppers because they get a lot of the information behind the scenes. Without Crime Stoppers help, many crimes would not be solved. He felt this was a very good program in the community.

Councilman Watts moved to fund Crime Stoppers of Asheville $18,000. This motion was seconded by Councilwoman Field and carried on a 4-3 vote, with Vice-Mayor Peterson and Councilmen McClure and Swicegood voting "no".

RiverLink

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
16,000	16,000	16,000	8,000	0

Mr. Ed Metz, Chairman of RiverLink, stressed that the mission statement of RiverLink is the economic and environmental revitalization of the French Broad which should benefit all of Asheville and its citizens. He felt that they have returned to the City many-fold it's

investment. Two years ago the City funded RiverLink $18,000 and we have returned back to City approximately $140,000, through grants. He said that RiverLink accesses and will continue to access grants that City governments cannot and he felt that this public-private relationship benefits the City as well as RiverLink.

Councilman McClure asked Mr. Metz to explain RiverLink taking on long term debt to acquire property in the amount of $160,000. Mr. Metz explained that RiverLink will be refinancing approximately $100,000 their headquarters building. He also explained Riverlink's proposal to purchase the cotton mill. He said the asking price for the cotton mill is $110,000, but there is a separate parcel that was not totally destroyed by the fire for $60,000. Mr. Metz explained that $30,000 is an assumption of a Clyde Savings mortgage with favorable terms and the other $30,000 has been received from a benefactor of RiverLink and they consider that to become a RiverLink endowment and there would be no repayment.

Councilman McClure said that RiverLink has done a tremendous job for this City, but in his opinion, felt that the City is subsidizing the purchase of property for a non-profit organization and he has a problem with that. He felt that the City's funding should be used in cleaning up the river, and not used for long term debt for purchase of property.

Councilman Swicegood said that since RiverLink is a non-profit and receives City funding, he felt they acted irresponsible in letting a political meeting take place in their offices. He felt like RiverLink has done a good job, however, he could not support funding them.

Councilwoman Field said that she was sure all Council knew of the kind of grants that RiverLink has brought to the City. She felt that this is an investment. She felt they are a fine organization and her suggested $16,000 funding is that part of their budget that they can't get through grant money.

Mayor Martin said that this is the only outside agency, that he could recall, that has given the City back $140,000 for use in other projects.

Councilwoman Sitnick said that "RiverLink has not only given the City $140,000 and like the Mayor said, I can't think of anybody, individual or group, that has given us any amount, but, they have probably provided 15,000-20,000 hours of volunteer efforts on behalf of the City. We're giving a gentlemen $5,000 of City money for a visioning process that the river, I imagine, is going to be a large part of. I think that the river is one of those four major economic development areas that I referred to earlier - Hand Made in America, the Grove Arcade, South Pack Square and the River - they are four major economic development potentials for this community that are unequaled, other than individual development and growth. I think $16,000 is a small enough amount of money to give to an organization that has actually come before us and stood at the podium and handed us checks totaling $140,000."

Vice-Mayor Peterson agreed with Councilman Swicegood that RiverLink is not a political organization. They receive money from government agencies.

Vice-Mayor Peterson moved to not fund RiverLink. This motion was seconded by Councilman Swicegood and failed on a 3-4 vote, with Mayor Martin, Councilman McClure, and Councilwomen Field and Sitnick voting "no".

Councilman McClure moved to fund RiverLink $8,000. This motion was seconded by Councilman Swicegood and failed on a 3-4 vote, with Mayor Martin, Councilman Watts, and Councilwomen Field and Sitnick voting "no".

Councilwoman Field moved to fund RiverLink at $14,000. This motion was seconded by Councilwoman Sitnick and failed on a 3-4 vote, with Vice-Mayor Peterson and Councilmen McClure, Swicegood and Watts voting "no".

Vice-Mayor Peterson moved to fund RiverLink $4,000. This motion was seconded by Councilman Swicegood and carried on a 4-3 vote, with Mayor Martin and Councilwomen Field and Sitnick voting "no".

Asheville Transit Authority

Request 1995/96	Recommended 1995/96	Field	McClure	Swicegood
780,523	873,820	794,180	794,180	794,180

An unidentified lady presented Council with a petition containing almost 700 names which read "Don't Cut the Bus Budget! Don't Reduce Services! We the undersigned petitioners, request that City Council sustain its 1993 level of funding to the Asheville Transit Authority! The bus service provides us with essential transportation to our jobs, furnishes transportation for our school children and provides us with access to meet our vital health care needs!"

Ms. Althea Goode, representing people who live in public housing, asked Council not to cut the Transit budget and asked Council to add more service because there are no buses after 6:00 p.m. Most people who can't afford cars depend totally on the bus system.

Mayor Martin explained that Council is not cutting the budget, but actually the recommended figure is increasing it somewhat.

Ms. Julie Osborne urged Council to continue the bus service and asked Council to consider other methods to make the Transit Authority profitable to the City.

Mr. Steve Arpin spoke in support of the bus system and adding more money to promote the system so people will use it. He also asked Council to think about a different type of land use regarding transportation.

Mr. John McBride urged Council to fund the Transit Authority at it's 1993/94 level, which was $850,265. He said that if the City cuts the buses, there will be more unemployment because people will not be able to get to their jobs.

Ms. Pat Skalski passed out to Council a "Fact Sheet". She then stated facts and reasons why Council should not decrease funding for transit services, but increase the funding in the Asheville area. She said that her figures were derived from the Citizen-Times, and from public radio By-Line and also talking to Lonnie Blair, Transit Authority General Manager.

Councilman McClure said that he was unsure about the figures Ms. Skalski was using and the actual figures. The actual documents he had shows that actually ridership has decreased by 16% in Asheville.

Vice-Mayor Peterson said that this Council is very committed to our transit system with new buses and a new transit center.

Councilwoman Field explained that last year the total federal, state and City of Asheville subsidy came to $1,351,560. The federal and state subsidy is going to be lowered, so what the City did was raise ours so that we are subsidizing them at the same rate as last year - $1,351,560 total. In addition, we have put aside some money, that we are not putting in their budget this year, to help pay for some purchase of property for the transit site, which should be coming to Council next year. Last year we funded the Transit Authority at $707,430 - this year we're funding them at $794,180. What the Transit Authority had requested was an increase of about 23-1/2% over last year. What we are recommending is an increase of about 12-1/4% over last year. The 1992/93 level was $790,951 and we are slightly lower than the 1993/94 level of $850,265.

Councilman McClure stated that ridership is down and revenues have decreased. He said the Transit Authority needs to take some steps to become more efficient. The City cannot continue to make up the loss of funding from the state or federal cuts due to the lack of ridership. We need to make sure that we do not continue to subsidize this until some steps are made to make the bus system more efficient. When you only have 1.93 people riding a bus per mile, then it is not an efficient system. He was not saying that it's not a necessary system - only not an efficient system.

Councilwoman Sitnick once again stated her "unhappiness at the particular buses that have been purchased for the City this time. Prior to the purchase, prior to the contract, I had requested that we look into the possibility of buying buses that were more fuel efficient, that were cleaner, that used a compressed gas, or propane, or clean fueled - the possibility of doing co-fueling with the County for all of our vehicles. That did not happen this time. I'm not happy that we signed away the liquidated assets because of the delay in delivery. I would only ask that, again, at a future date but in the very near future, this Council sit down and work with members of the Asheville Transit Authority and those people who ride the buses who can give us the nitty-gritty information about what's needed and where. That we look into ways that we can, as Councilman McClure said, make the system more efficient, make it more effective, look into alternatives, possibilities like smaller vans for routes that are not heavily used, look for ways to provide bus service in this City beyond 6:00 p.m., look for ways that we can provide bus service in this City on weekends, and other things that have been brought to the attention of this Council. I would only ask that at our very earliest opportunity, we've got an incredible amount of resource in this community, wise people, experienced people, to work with the Council, to work with the Transit Authority, to find ways to improve the mass transit opportunities in Asheville. And also, to do what Ms. Osborne recommended earlier - to find ways to promote the bus system so that people will use it more."

Mayor Martin said that Councilwoman Sitnick brought up some good points. He said that a letter was received indicating that the propane, or natural gas, buses would be nearly twice as expensive. He felt that until the costs come down to the point where they aren't so prohibitive, it would be foolish of us to seriously consider that form of transportation. We do, however, need to keep an open mind.

Councilwoman Sitnick said that she has information coming to her from a number of sources which show that cleaner fuel buses last longer

and the fuels are much cheaper when you do them in a co-fueling manner with the surrounding area, like the County. We need to just look into that and evaluate it.

Vice-Mayor Peterson moved to fund the Asheville Transit Authority $794,180. This motion was seconded by Councilman Watts and carried unanimously.

Mayor Martin closed the public hearing at 7:37 p.m.

Councilwoman Sitnick said that she would like to request "regarding all of these funds that we give to outside agencies, as well as the money we give to private economic development recipients, that the City Council requests of all recipients of City money, that they come before us in six months to justify and validate what their impact is, and what the effect of those monies are. I would like to request that City Council, at a later time, consider this request on my part, so that we make sure that everybody we're giving money to, whether it's an agency or a company or a business recipient of economic development funds, comes to City Council and lets us know exactly what they're doing with those monies."

Mayor Martin felt that was a very reasonable request and it has been something Council has endeavored to do over the last two years. He, too, felt it was important to keep track of monies that we spend in the community and get some feedback from the various outside agencies.

Councilman Swicegood thanked the City Manager and all employees for being more efficient. He felt that was one reason why Council could offer a pay raise without raising taxes.

Councilman McClure commended the City Manager and staff and noted that we will not be raising taxes and still have a fund balance reserve.

City Manager Westbrook said that he needed some direction in the savings of $161,213 from the cuts made to the outside agencies.

Councilman Field moved to appropriate the approximate $81,000 to the second phase of the street paving program and half of the remaining amount ($40,107) to stormwater drainage repair and the other half of the remaining amount ($40,106) to sidewalks. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilwoman Sitnick invited members of the public to get copies of the budget, look it over, and suggest any other ways that the City can save by being more efficient or more effective. We welcome those comments. If anyone has any ideas about how to find new sources of revenue, we'd really welcome those comments.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2220. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2220 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 124

At this time, 7:40 p.m., Mayor Martin announced a ten minute recess.

B. PUBLIC HEARING RELATIVE TO REZONING 2 HERMAN STREET, 149 LIVINGSTON STREET AND 133 LIVINGSTON STREET FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

ORDINANCE NO. 2221 - AN ORDINANCE TO REZONE 2 HERMAN STREET, 149 LIVINGSTON STREET AND 133 LIVINGSTON STREET FROM R-3 RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 7:53 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Tony Nicholson, Urban Planner, said that the New Mount Olive Baptist Church is requesting the rezoning of 2 Herman Street, 149 Livingston Street and 133 Livingston Street from R-3 Residential to R-4 Residential. These three lots total 6.6 acres.

The Church originally requested the rezoning of just their 3.8 acre property but after discussions with staff in Planning and Legal, they determined that the request would likely be considered illegal spot zoning. Therefore, the petitioner ultimately requested the rezoning of the three properties.

On April 20, 1995, 52 notices were sent to property owners making them aware of the public hearing to be held on May 3, 1995, by the Planning & Zoning Commission. At the public hearing three residents spoke opposed the rezoning for the following reasons: (1) afraid of impact on neighborhood of commercial encroachment; (2) concerned about increased traffic and potential for traffic accidents on Livingston Street and on Beech Hill Street; and 3) desire to have new housing in that area, but not any more businesses. Two dozen residents stood to show their support for the rezoning at the public hearing.

The Planning staff recommended approval of the rezoning request because although the 2010 Plan shows low density residential land uses for the area, the area contains a mixture of uses and is surrounded on three sides by single and multi-family housing. In addition, the 2010 Plan recommends mixed uses within one block of the subject properties. Also, the R-4 zoning district allows a limited number of non-residential uses and better reflects the existing uses within the area. However, the Planning & Zoning Commission ("Commission") voted 4-2 to deny the rezoning request.

When Councilwoman Sitnick asked Mr. Nicholson why the Commission voted in that fashion, Mr. Nicholson could only guess that they were sympathetic to the concerns of the neighbors.

Mr. Nicholson said that on May 8, 1995, Reverend O.T. Tomes of New Mount Olive Baptist Church appea ed the Planning & Zoning Commission decision to the City Council.

Mayor Martin noted that he received a phone call from Ms. Ann Hunting Williams, 48 Gaston Street, expressing her opposition to the rezoning request.

Mayor Martin said that he has received two petitions which read: "We, the under signed, strongly believe that providing access to medical care is a primary need in the n ighborhood. We support New Mount Olive Baptist Church and ABCCM in their plans to bring ministry services to our neighborhood" A note with the petition containing 58 signatures

read "members who are in support of the clinic but do not reside in the neighborhood"; another note with the petition containing 63 signatures read "residents who reside in proximity to property where clinic is to be built."

Upon inquiry of Councilwoman Sitnick about what uses would be permitted in the Commercial Service district, Mr. Nicholson said that primarily any type of commercial use that does not permit any industry or residence.

Rev. Tomes said that his church has planned over a year to provide medical services and preventive education to the community in partnership with the ABCCM Doctors' Medical Clinic. They had received a letter on September 22, 1994, indicating that this was a permitted use under the R-3 zone since ABCCM was considered a church and this was a direct extension of the church's ministry.

According to a recent study by Health Partners, this census tract has the highest number of medically under-served persons in the County. The church, along with ABCCM, has been a part of a year-long planning process to identify not only the area of greatest need, but the ways in which to impact this need. In April of 1995, the Health Partners' request to the Robert Wood Johnson Foundation identified the ABCCM Clinic as the lead agency with the greatest opportunity to successfully impact the medically under-served through a clinic at our location, 149 Livingston Street. Area pastors and members of New Mount Olive Baptist Church who live in the neighborhood support this vital service.

Rev. Tomes said that there will be no federal dollars or no governmental funds involved in the operation or construction of this clinic.

The following people spoke in support of the clinic:

Ms. Edna Campbell, resident on Hibernia
Ms. Nancy Arnold, 20-D Erskine Street Apartments
Ms. Ethel Lee, 59-C Erskine Street Apartments
Ms. Betty Smith, 2-A Black Street
Ms. Hedy Broadwater, 91 Congress Street
Mr. Betty Lytle, 27 Water Street, Apt. 2
Mr. James Smith, resident directly across from the church
Ms. Ray, area resident

Mr. Phil Smith, attorney representing the ABCCM, spoke in support of the clinic and stressed the importance of the location of the clinic. The clinic will be able to serve 80 people a day. They have had four neighborhood meetings and they will be good neighbors.

Mr. Scott Rogers, Executive Director of ABCCM, said that no controlled substances will be stored on site at the clinic. They have addressed a number of issues related to the community's concerns about security. They have invited the neighborhood to be part of planning for the security lighting, etc. We have a security patrol in connection with the shelter that patrols the streets after hours. He said that ABCCM will work with the neighborhood and community to make sure that we extend the kind of services and cohesiveness that brings about a more stronger, more responsible area.

The following residents spoke, not against the clinic, but against the location of the clinic for various reasons, including, but not limited to: increase in traffic; when property owners bought their

property on Beech Hill Street, they didn't feel they had to worry about buildings being built in front of them because this was zoned R-3; there is no need for a clinic in this area because there are two major medical institutions already there, along with numerous other medical buildings, offices and health care facilities; many unforeseen problems as a result of a clinic; more drug activity; noise; speeders; no sidewalks; more lighting will not deter drug activity; and there is a need for affordable housing in the area.

Mr. Larry McAdams, 6 Beech Hill Street
Ms. Thomasine Smith, 4 Beech Hill Street (also presented a petition containing 16 names which reads "Should this clinic be built? We are greatly concerned that at night when the clinic is closed this will be another site for drug dealers and users to hang out, which will add to the break-ins, killings and rapes, and become another nightly hang-out for persons who have nothing to do, but sell and use drugs. We already have enough of this in our neighborhood and don't want anymore. We are all working people, homeowners, and taxpayers, who would like to enjoy a little peace and quietness after a long days work, when we return home. So we ask that you consider our request and concerns, and not rezone the property at Herman Street, site of New Mt. Olive Baptist Church."
Resident at 254 Livingston Street
Ms. Sandra Smith, resident on South French Board
Ms. Sandra Martin Davis, 60 Gaston Street

Upon inquiry of Councilwoman Field, Mr. John Ellis, architect for the project, said that the building has a very residential character. He explained that they did look at the different security issues regarding lighting glaring into the neighbors homes, traffic, and fencing.

Ms. Patsy Meldrum, Assistant City Attorney, reminded the Council that in determining in whether or not to rezone property, Council's duty is to look at whether or not it's in compliance with the comprehensive land use plan and to look at all the uses that would be permitted under the rezoning classification being requested, rather than the specific project which is planned for the site.

Councilman Watts commented that the Police Department is very aware of the drug problem in that area and has been using undercover officers to help clean it up. He strongly supported the clinic.

Upon inquiry of Councilwoman Sitnick, Ms. Meldrum explained what spot zoning is and the balancing tests used to determine if something is illegal spot zoning. In summary, her view is that it's not likely that this would be considered illegal spot zoning.

Councilwoman Sitnick said that based on the third balancing test of benefits and detriments which result from the rezoning to the owner of the property, to the neighbors of the property, and to the surrounding community, "one of the things that Council members do who are members of the Housing and Community Development Committee have learned is that there are people who are not availing themselves of the services of the Buncombe County Health Department for various reasons. And while there are hospitals in the area, hospitals and clinics have very different functions. And one of the things that has been brought

to our attention is that neighborhood based clinics really serve an important purpose, especially after you have a meeting like we did earlier this evening, regarding transportation in this community and the fact that there are many hours that it doesn't exist. So, based on that I'm going to consider supporting this petitioner's request. Especially because I am convinced that the African American community as O.T. stated earlier suffers higher incidents of many of the diseases that are on the wane in the non-African American community. For that, and based on the third balancing test, I will support this."

Mayor Martin said that there are few institutions or organizations in this community who have contributed as much to the needs of the homeless, the destitute, and sometimes even the hopeless, as ABCCM has. He was also proud to say that New Mt. Olive Church is providing an important contribution in another sector. He was pleased that we have two organizations of such character to cooperate in our community to this end.

Mayor Martin closed the public hearing at 8:50 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2221. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2221 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 129

C. PUBLIC HEARING RELATIVE TO CLOSING AN UNOPENED PORTION OF WATER STREET

RESOLUTION NO. 95-100 - RESOLUTION CLOSING AN UNOPENED PORTION OF WATER STREET

Mayor Martin opened the public hearing at 8:51 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Public Works Director, said that a petition has been received from Herbert A. and Lois J. Marsh requesting that a portion of Water Street be permanently closed. The portion of Water Street petitioned to be closed is not open as a street, but does have a private driveway located upon it which serves a single family residence. The property owner at the end of the portion of Water Street being petitioned to be closed did not join in the petition and was notified of this public hearing on May 26, 1995.

The Public Works staff recommends approval of the petition to close an unopened portion of Water Street based on the following: The portion of Water Street petitioned to be closed serves only three properties, two of which have signed the petition. The owner that did not sign the petition has property which could be accessed by the Water Street right-of-way but at the present has a chain link fence on this line and the Water Street line. The access to the property is off Oakland Avenue. Access from the Water Street right-of-way would require substantial grading to gain access.

Mayor Martin closed the public hearing at 8:54 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-100. This motion was seconded by Councilman McClure and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 319

D. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF AN UNOPENED ALLEY OFF ELIZABETH STREET

RESOLUTION NO. 95-101 - RESOLUTION CLOSING A PORTION OF AN UNOPENED ALLEY OFF ELIZABETH STREET

Mayor Martin opened the public hearing at 8:56 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Public Works Director, said that a petition has been received from property owners along a portion of an unopened alley off Elizabeth Street that the portion of alley be permanently closed to public use. One property owner did not join in the petition and was notified of this public hearing on May 26, 1995.

The Public Works staff recommends approval of the petition to close a portion of an unopened alley off Elizabeth Street.

Mayor Martin closed the public hearing at 8:58 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Peterson moved for the adoption of Resolution No. 95-101. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 321

E. PUBLIC HEARING RELATIVE TO CLOSING AN UNOPENED ALLEY OFF ANNIE STREET, A PORTION OF WESTWOOD PLACE AND A PORTION OF TOXAWAY EXTENSION

RESOLUTION NO. 95-103 - RESOLUTION CLOSING AN UNOPENED ALLEY OFF ANNIE STREET, A PORTION OF WESTWOOD PLACE AND A PORTION OF TOXAWAY EXTENSION

Mayor Martin opened the public hearing at 8:59 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Public Works Director, said that a petition has been received from M. Realty requesting that an unopened alley off Annie Street, the portion of Westwood Place between Hazel Mill Road and its dead-end, and a portion of Toxaway Extension between Hazel Mill Road and its intersection with the eastern portion of Toxaway Extension that

leads to Toxaway Street be permanently closed. Three property owners did not join in the petition and they were notified of this public hearing on May 26, 1995.

No through access would be denied to the public with the exception of the portion of Toxaway Street Extension which is not opened as a City maintained street and which is not passable at present. Through access will still be available between Hazel Mill Road and Toxaway Street by way of the portion of right-of-way not being closed.

The Public Works staff recommends approval of the petition to close an unopened alley off Annie Street, a portion of Westwood Place, and a portion of Toxaway Extension.

Upon inquiry of a resident of 16 Toxaway Street, Mr. Ward assured him that Hazel Mill Road will not be closed.

Mr. David Matney, attorney representing the owner, noted that they are also requesting that the City relinquish any easement it may have regarding a turn-around on Westwood Place.

Mayor Martin closed the public hearing at 9:04 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-103. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 324

F. PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF DELL STREET, A PORTION OF AN UNNAMED ALLEY OFF DELL STREET, A PORTION OF DAVENPORT ROAD, A PORTION OF VERMONT COURT AND A PORTION OF RUSSELL AVENUE

RESOLUTION NO. 95-104 - RESOLUTION CLOSING A PORTION OF DELL STREET, A PORTION OF AN UNNAMED ALLEY OFF DELL STREET, A PORTION OF DAVENPORT ROAD, A PORTION OF VERMONT COURT AND A PORTION OF RUSSELL AVENUE

Mayor Martin opened the public hearing at 9:05 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Public Works Director, said that a petition has been received from property owners owning property along a portion of Dell Street, a portion of an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Court and a portion of Russell Avenue requesting that these portions be permanently closed to public use.

The petitions received includes signatures of all property owners adjoining the portions of streets being petitioned for closing. The petitions also include signatures of 38 property owners in the area of the street closings who also support the petitions. Any property owner who would be indirectly affected by the closing, with the exception of 26 owners, have signed the petition. None of the streets or alleys

requested to be closed are actually open for use. The terrain of the area where the petitioned closings are located would make the opening of these streets virtually impossible without tremendous cost. No property owner in the area would be deprived of reasonable means of ingress or egress from their property. Two property owners did not join in the petition and they were notified of this public hearing on May 26, 1995.

The Public Works staff recommends approval of the petition to close a portion of Dell Street, an unnamed alley off Dell Street, a portion of Davenport Road, a portion of Vermont Circle, and a portion of Russell Avenue.

Mayor Martin closed the public hearing at 9:07 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-104. This motion was seconded by Councilman Watts and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 326

G. PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED NORTH OF BEAVERDAM ROAD AND BEING THAT PART OF THE BEAVERDAM RUN PROPERTY NOT INCLUDED IN THE ANNEXATION AREA DESCRIBED IN ORDINANCE NO. 2038

ORDINANCE NO. 2222 - ORDINANCE ANNEXING PROPERTY LOCATED NORTH OF BEAVERDAM ROAD AND BEING THAT PART OF THE BEAVERDAM RUN PROPERTY NOT INCLUDED IN THE ANNEXATION AREA DESCRIBED IN ORDINANCE NO. 2038

Mayor Martin opened the public hearing at 9:08 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that the Beaverdam Run Homeowner's Association has submitted a petition for the annexation of all that portion of Beaverdam Run not previously annexed into the City of Asheville. The area petitioned for annexation consists of 34 acres and is adjacent to the existing corporate limits. The current tax value of the area is $733,200 and there are two units on it. This annexation will become effective on June 30, 1995.

Mayor Martin closed the public hearing at 9:09 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Watts moved for the adoption of Ordinance No. 2222. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2222 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 131

H. **PUBLIC HEARING RELATIVE TO CLOSING A PORTION OF AN UNOPENED ALLEY BETWEEN RIVERVIEW DRIVE AND EUCLID BOULEVARD**

RESOLUTION NO. 95-102 - RESOLUTION CLOSING A PORTION OF AN UNOPENED ALLEY BETWEEN RIVERVIEW DRIVE AND EUCLID BOULEVARD

Mayor Martin opened the public hearing at 9:10 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Larry Ward, Public Works Director, said that a petition has been received from property owners owning property adjoining a portion of an unopened alley right-of-way running parallel to Haywood Road between Euclid Boulevard and Riverview Drive requesting that the portion adjoining their property be permanently closed to the public use. The petition submitted includes signatures of all property owners along the portion of the alley requested to be closed with the exception of one. This one owner was notified of this public hearing on May 26, 1995. The lot owned by the person who did not sign the petition is 25 feet wide by 100 feet deep and has an assessed value of $1,900. The alley is located in a ravine and is not opened for use. There is a stream that runs along the alleyway. The portion of the alley off Riverview Drive which will remain is not open and access from Riverview Drive would be virtually impossible. Closing the portion of the alley would not deny any property owner not signing the petition reasonable means of ingress or egress to their property.

The Public Works staff recommends approval of the petition to close a portion of an unopened alley between Riverview Drive and Euclid Boulevard.

Mayor Martin closed the public hearing at 9:11 p.m.

Mayor Martin said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Watts moved for the adoption of Resolution No. 95-102. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 323

I. **PUBLIC HEARING RELATIVE TO ANNEXATION OF PROPERTY LOCATED AT BILTMORE PARK (GLEN OAKS 2 AT BILTMORE PARK)**

ORDINANCE NO. 2223 - ORDINANCE ANNEXING PROPERTY LOCATED AT BILTMORE PARK (GLEN OAKS 2 AT BILTMORE PARK)

Mayor Martin opened the public hearing at 9:12 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that Biltmore Farms Inc. has submitted a petition for the annexation of an area located west of Overlook Road: Biltmore Park, Section 6. The area petitioned for annexation consists of 19 acres. This annexation is adjacent to Section 5 of Biltmore Park, but will not be contiguous to the City until the annexation of Section 5 becomes effective on August 21, 1995. Therefore, this petition will be handled as a satellite annexation. The

annexation does include the 38 lots, single-family subdivision referred to as Glen Oaks, Phase 2. The effective date for the annexation will be December 27, 1995. Given the estimated tax value of the property at $250,000 per lot, this would increase the tax base by $9,500,000.

Mayor Martin closed the public hearing at 9:14 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2223. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2223 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 133

J. **PUBLIC HEARING RELATIVE THE DEMOLITION OF THE STRUCTURE LOCATED AT 25 RIDGE STREET**

ORDINANCE NO. 2224 - AN ORDINANCE DIRECTING THE DIRECTOR OF BUILDING INSPECTIONS TO DEMOLISH 25 RIDGE STREET

Mayor Martin opened the public hearing at 9:15 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Fire Chief John Rukavina said that 25 Ridge Street was inspected on September 3, 1993, and found the following conditions: the dwelling is abandoned; the dwelling is being occupied by vagrants; is accessible to children; has no electricity; and is unfit for human habitation. Proper notices have been sent to the property taxpayer of record and on December 7, 1994, the owner was given 30 days to repair or demolish. No action has been taken to date.

Councilman McClure asked if we could coordinate our demolitions with Douglas Ballentine of Preservation Hall. He said that the Preservation Hall will actually go in and take doors, mantels, etc., and they will pay us for those items. Fire Chief Rukavina said that we are following up on that. As a matter of fact, we're also working with Buncombe County because issues have been raised about disposal of demolition debris and the County is looking to keep as many things out of the landfill as possible.

Mayor Martin closed the public hearing at 9:16 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Field moved for the adoption of Ordinance No. 2224. This motion was seconded by Councilman McClure.

On a roll call vote of 7-0, Ordinance No. 2224 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 136

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS:

A. **RESOLUTION NO. 95-105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH BUNCOMBE COUNTY TO PROVIDE FIRE PROTECTION SERVICES FOR THE SKYLAND FIRE PROTECTION SERVICE DISTRICT**

City Manager Westbrook said that Buncombe County has created a new fire protection service district known as the Skyland Fire Protection Service District (which includes the Biltmore Estate), effective July 1, 1995, and has asked the City of Asheville to enter into an agreement with them to provide fire protection and first responder services to said District in exchange for the payment to the City of the ad valorem tax revenues and the sales tax revenues generated by the District.

Mr. Westbrook said that the total property value is listed as $34,594,600. With the tax rate established at 8.5 cents and the collection rate at 97%, the total dollars involved would be $28,523 for Fiscal Year 1996. Also there will be some sales tax revenues which will be approximately $35,000 a year for the City. Since the contracts must be in place by July 1, 1995, this becomes an urgent matter. If the City does not want to enter into a contract, Skyland Fire Department is ready to accept.

Staff is recommending that we take over fire protection service for Biltmore Estate effective July 1, 1995, which will bring in approximately $35,000 a year this first year. It is our intent, after the first couple of years, if we find that it costs us more than that to provide that service, to go back for an adjustment.

When Councilman Swicegood asked if the City would have to respond to EMS calls for the 700,000-800,000 visitors each year, Fire Chief Rukavina said that this is for fire protection service and first responder services only. He said the total number of calls per year is approximately 36 to 50.

Fire Chief Rukavina said that we are anticipating no additional costs for this service at this point. In fact, in many cases, up until about January of this year, we were being called in on a mutual aid basis for Buncombe County in any event. There is an extremely limited public water supply there, so that's something the City will want to look at if we go beyond this year in the agreement. However, the Fire Department has reviewed this agreement and we have the resources to provide the services.

Upon inquiry of Councilman Swicegood about how the City will be paid for any possible expansion of the Biltmore Estate, Mr. Westbrook said that when their property tax increases, the County will pick it up on their tax books and the City gets 8-1/2 cents on their revised total property value.

Upon inquiry of Councilman McClure, Fire Chief Rukavina said the Fire Department has done some limited pre-planning in the event of a disaster simply as a defensive measure. We also, in the past, have helped Biltmore Estate with some employee training in terms of their internal fire protection. We are familiar with the estate and will become much more familiar with it, if Council desires to contract with the County.

When Vice-Mayor Peterson asked if the City would be liable if something really disastrous happens, Mr. Westbrook responded that the City would not be. He said the City would use all available City resources to fight a fire, plus we would call in mutual aid with the volunteer fire departments, much as we did with the fire down on the Riverfront. Also, Fire Chief Rukavina said that in the agreement, there is a reference made to what adequate fire protection is and we think we came up with a good definition for that which minimizes the City's exposure.

In response to Vice-Mayor Peterson, Mr. Westbrook said the contract provides for the City to provide the County with a notice of what we want the tax rate to be and there would be a budget session with the County and the Commissioners would set it. We would have a chance to put forth our argument on why it should be higher or lower, or make a change in it.

When Councilman Swicegood asked if this agreement would cost the City anymore manpower, Fire Chief Rukavina said no, it would not. In terms of the amount of activity generated, we think that we can handle that with the positions we currently have budgeted. The workload should be very minor.

Upon inquiry of Councilman Swicegood, Mr. Westbrook said that Biltmore Forest would be more expensive to serve because there are 1,700 individual dwelling units.

Councilman Swicegood was disappointed that this has been presented to the City in such short notice with action requested by the Council by July 1, 1995. He was also concerned about the possible need for additional equipment at a future date.

Councilwoman Sitnick had a concern about the distance just to get to the main estate because by car it takes about 17-18 minutes to get from the entrance to the building. Fire Chief Rukavina said that there is an alternate entrance for service and emergency vehicles and again, based on our previous responses time there, our response time tends to be comparable with other parts of the City.

Councilwoman Sitnick questioned if, given the character of the estate and the size of the building, there were a fire there, would be we tying all our equipment and personnel? Fire Chief Rukavina said that one of the things that we constantly have to plan for - exactly that kind of situation. What we try to do is commit fire apparatus to a major fire so that the balance of the City always has protection. And that's something that we would have to be very careful to plan for in this case, if we were to provide the protection.

When Councilwoman Sitnick asked if $35,000 was a break-even number, Mr. Westbrook said he didn't know because there has never been a fire out there. In any case, that's the amount the County has enacted. If there is a fire out there, the City's going to have to fight it because no one else has a bucket truck or an elevated ladder. To the County, it's a rural fire district situation and they're contracting with the City to do that. Our point is we're going to fight the fire anyway because of our equipment and if the City elects not to contract to do it, another rural fire company would get the $35,000 and we'd still wind up fighting the fire.

To address Councilman Swicegood's concern regarding additional equipment, Mr. Westbrook said that City staff wouldn't come to Council for additional equipment without the County tax rate paying for it.

Councilwoman Field moved for the adoption of Resolution No. 95-105 with said contract to commence July 1, 1995, for a term of one year, automatically renewable thereafter for successive one year terms. This motion was seconded by Councilman Swicegood and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 328

V. CONSENT:

Ms. Patsy Meldrum, Assistant City Attorney, responded to questions from Councilman Swicegood relative to a settlement of the Lodal garbage truck.

A. APPROVAL OF THE MINUTES OF THE WORKSESSION HELD ON JUNE 6, 1995, THE REGULAR MEETING HELD ON JUNE 13, 1995, AND THE WORKSESSION HELD ON JUNE 20, 1995

B. RESOLUTION NO. 95-106 - RESOLUTION RE BIDS FOR REFUSE COLLECTION VEHICLE

Summary: Staff recommends that award be made to the low bidder, Southern Truck Service, Charlotte, N.C., i the amount of $118,996 for a 1995 'Crane Carrier' model 'LET Tandem' cab and chassis with a 'Heil' model 5000-20 hydraulic packer body and a 'Barker' model 602 pumping unit. The following bids were opened on May 30, 1995:

Vendor	Net Cost
Southern Truck Service, Charlotte, NC	$118,996.00
Heil Environmental Ind., Chattanooga, TN	$121,307.00
Heil Environmental Ind., Chattanooga, TN (alternate bid)	$122,893.00
White GMC Trucks, Hickory, NC	$126,168.26
White GMC Trucks, Hickory, NC (alternate bid)	$124,937.26

RESOLUTION BOOK NO. 22 - PAGE 329

C. MOTION SETTING A PUBLIC HEARING FOR JULY 11, 1995, TO AMEND THE ZONING ORDINANCE TO ADOPT A NEW ZONING DISTRICT, R-3A RESIDENTIAL SINGLE-FAMILY HIGH DENSITY

D. MOTION SETTING A PUBLIC HEARING FOR JULY 11, 1995, TO AMEND THE ZONING ORDINANCE TO REZONE TWO LOTS AT 18 PISGAH VIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

E. RESOLUTION NO. 95-107 - RESOLUTION REAPPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Summary: This resolution will reappoint Betty Tenn Lawrence to an additional three year term. Her term will expire July 1, 1998, or until her successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 331

F. RESOLUTION NO. 95-108 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE AREA CIVIC CENTER COMMISSION

Summary: This resolution will reappoint Barbara Halton and appoint Tim Moffitt, Jimmy Sullivan and Tom Bailey to the Civic Center Commission. Their terms will be three years respectively, terms to expire June 30, 1998, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 332

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman McClure and carried unanimously.

ORDINANCES:

A. ORDINANCE NO. 2225 - BUDGET AMENDMENT RELATIVE TO RECREATION CENTERS

Summary: This budget amendment, in the amount of $39,100, provides "bookkeeping" for funds raised by Recreation Center organizations and used by them for special events or other center activities.

ORDINANCE BOOK NO. 15 - PAGE 138

Councilwoman Field moved for the adoption of the Ordinance Consent Agenda. This motion was seconded by Councilman Swicegood.

On a roll call vote of 7-0, the Ordinance Consent Agenda passed on its first and final reading.

VI. OTHER BUSINESS:

A. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of June 8-15 1995: CP&L (Streets), Eugene V. Weitzel (Water) and Roger Hawkins (Water).

He said the following claims have been received during the week of June 15-21, 1995: Joseph Childery (Water), Paul Ledford (Water), Wendy Jackson (Parks and Recreation), and Jeir Watson (Water).

He said that these claims would be referred to the appropriate insurers for investigation.

B. CLOSED SESSION

At 9:45 p.m., Councilwoman Field moved to go into closed session to (1) establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; (2) hear a complaint, charge or grievance by an employee; (3) give instructions to an attorney concerning the handling of a judicial action entitled Hobson v. APAC v. City of Asheville; and (4) give instructions to an attorney concerning the handling of a claim by Deborah Mathis-Sutton. This motion was seconded by Councilman McClure and carried unanimously.

At 10:45 p.m. Councilwoman Field moved to come out of executive session. This motion was seconded by Councilman McClure and carried unanimously.

At 10:48 p.m., Councilwoman Field moved to continue this meeting until Wednesday, July 5, 1995, at 2:00 p.m. in Room 209 of the City Hall Building. This motion was seconded by Councilman McClure and carried unanimously.

Magdalen Burleson
CITY CLERK

MAYOR

Wednesday - July 5, 1995 - 4:00 p.m.
Room 209 - Council Conference Room

CONTINUATION OF Tuesday, June 27, 1995, City Council Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

Mayor Martin announced that this is a continuation of the Tuesday, June 27, 1995, City Council meeting.

NEW BUSINESS:

RESOLUTION NO. 95-109 - RESOLUTION ACCEPTING FUNDING FROM THE NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, GOVERNOR'S CRIME COMMISSION, TO SUPPORT A HUMAN RELATIONS TRAINING PROGRAM FOR CITY OF ASHEVILLE POLICE DEPARTMENT EMPLOYEES AND TO AUTHORIZE EXECUTION OF AN AGREEMENT WITH THE MEDIATION CENTER TO CONDUCT THE TRAINING

City Manager Westbrook said that the Asheville Police Department has been awarded $20,500, through a North Carolina Department of Crime Control and Public Safety, Governor's Crime Commission, to fund a Human Relations Training Program. No matching funds are required.

Councilwoman Field moved for the adoption of Resolution No. 95-109. This motion was seconded by Councilwoman Sitnick and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 333

RESOLUTION NO. 95-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE HOUSING AUTHORITY TO REIMBURSE THE CITY FOR COSTS ASSOCIATED WITH THE PROVISION OF PROTECTIVE SERVICES

Police Chief Will Annarino said that the Asheville Police Department has an Asheville Residents and Government in a Unified Strategy team (ARGUS). ARGUS is staffed with one police sergeant and three police officers who provide extra protective services within Asheville's public housing communities. The Housing Authority reimburses the City for salary and fringe benefits of the three officers. The current year's cost is approximately $105,000. The Housing Authority's funding source is a Housing and Urban Development Drug Elimination grant. HUD requires a written agreement between the Housing Authority and the City for grant funds to be used for this purpose.

Chief Annarino answered various questions from Council about how the program has been working since 1991. He stated that drug trafficking will be reduced with the closing of Erskine Street and making it into a cul-de-sac. He explained that the Police Department is not only making arrests, but trying to change barriers, attitudes and physical boundaries. He talked about how the Police Department is begin able to help the Housing Authority with evictions, especially from lease violations. He spoke about some future grants to help with the problems in the Eagle/Market Street area and the need for merchants to be part of

the solution. He said the Police Department is limited if the community is not involved and they encourage information and ideas from the public.

Councilwoman Sitnick said that she has received letters and phone calls regarding the Housing Authority not being cooperative when complaints are filed, sometimes even by resident managers. She wondered if it would be beneficial for Council to meet with the Police Chief, police employees and Housing Authority personnel to show that the City Council is determined to make the situation better in public housing, and other areas, and that the Council is committed to the elimination of the drug problem in Asheville.

When asked what the City Council could do to help the Police Department in reducing crime, it was suggested that a letter be written to our local delegation asking them to strengthen the judicial system which will enable judges to impose stricter penalties on violators.

City Council stressed that they are very serious on eliminating crime in Asheville and will do whatever they can to make Asheville crime and drug free.

Councilman McClure suggested license numbers be documented and placed on a list from the people who are buying the drugs, not only the sellers.

Mr. H. K. Edgerton stressed that City Council needs to find ways to tap the creativity of African-Americans in the community and bring them into the whole process.

Councilwoman Sitnick moved to have a letter written from the Mayor and Council to our local delegation saying that City Council is serious about the drug problems in Asheville. In that letter we should express our concerns and let me know that we intend to gather all of the players, i.e., Housing Authority management including resident managers, Police Department personnel, and local experts to hold a brainstorming session, in order to come out with some very clear, stringent objectives and goals as to how we are going to take back our City and turn it around. We are also going to investigate looking into the responsibility of parents. We want our legislators to approach the court system about more stringent measures and report back to us as quickly as possible. This motion was seconded by Councilman Swicegood and carried unanimously.

Councilman Swicegood moved for the adoption of Resolution No. 95-110. This motion was seconded by Councilwoman Field and carried unanimously.

RESOLUTION BOOK NO. 22 - PAGE 334

STEERING COMMITTEE - VISIONING PROCESS

Councilman McClure reported that the Steering Committee has made considerable effort to include a more diverse group of people to its Steering Committee as requested by City Council. The Steering Committee now consists of Ray Bailey, James Banks, Carl Bartlett, Robert Burgin, Philip Carson, John Cecil, Rev. Ralph Sexton, Ben Slosman, Patricia Smith, Robert Smith, Albert Sneed, Carolyn Wallace, Betty Donoho, Ernest Ferguson, Jay Garner, Wanda Greene, Patsy Keever, Dolly Mullen, Clark Olsen and Theo Pritchett. He stated that City Council needs to make sure that the Steering Committee is very diverse in appointments to the

Task Force. He also stated that the Steering Committee, at City Council's request, delayed in making the Task Force appointments for an additional week. He supported moving forward with the City's participation.

Councilwoman Sitnick expressed concern with the whole process. She stressed the need for real meaningful public input. She had concerns about the Steering Committee itself making appointments, when additional appointments should have been made by the original four groups that participated financially. She had no problem with the people the Steering Committee appointed, only with the process. Personally she has a real problem with the way things have happened so far, but the City would be missing an opportunity if they didn't support it and if they weren't involved, even if only to monitor it and see if our $5,000 was well spent. She didn't fell that we should take ourselves out of it at this point, but she was not happy with the way it happened. Part of what our challenge, as a Council, is to convince the community that this is a good thing and they should participate.

Vice-Mayor Peterson felt that the Committee did not include enough diversity and would not support the City's involvement in the progress.

Councilwoman Sitnick noted that instead of the 150 member Task Force, a decision has been made to include 37 elected officials (including all City Council and all County Commissioners) over and above the 150 members.

Councilman Swicegood stated he didn't appreciate Albert Sneed's comments in the Citizen-Times relative to his controlling Council. He didn't know if this process was going to be any good, but he would support it in hopes that it can make Asheville better and hoped that something good will come out of it.

Mayor Martin stated that the process at the start was flawed, but we must keep our eyes on the objectives and give this process our wholehearted support.

Councilwoman Sitnick presented Council with the names and addresses of the appointed Steering Committee members (minus the two appointments of the City) and noted the budget of $27,500 relating to the facilitator.

Councilwoman Field stated that even though she had some problems with Mr. Luke, the City needs to put as much as it can into the process, so we can get out of it as much as we can.

Mr. Daniel Breen spoke against the City spending $5,000 on this matter especially since it doesn't have the diversity of the City on it.

Mr. H. K. Edgerton suggested Council use the name of the people that were involved in the EZ/EC process. It was the consensus of Council that using those people would be an excellent idea.

Councilman McClure moved to follow through with the City's participation on the visioning process. This motion was seconded by Councilwoman Field and carried on a 6-1 vote, with Vice-Mayor Peterson voting "no". Councilwoman Sitnick wanted it noted that she voted in favor, but with reservations.

Mr. Albert Sneed said that the newspaper article Councilman Swicegood was referring to earlier was incorrect and apologized for any misunderstanding.

The following names were suggested by Council for the two appointments to the Steering Committee: Rev. O.T. Tomes, Jerry Sternberg, Rock McClure, Cissy Majebe, Jan Bowman, Dr. David Burnette, Joe Norterker, Katherine Morris, Jay Schostry, David Miles, H.K. Edgerton, Barber Melton, Dick Rice, Beth Maczka, Jan Van Laurel, Ann Cross and Sam Camp. Vice-Mayor Peterson did not wish to suggest any names.

The list of names were narrowed down to five, those being: Rev. O.T. Tomes, Cissy Majebe, Jerry Sternberg, Rock McClure and David Burnette.

The following was the results: Rock McClure - 5 votes; Jerry Sternberg - 4 votes; Rev. O.T. Tomes - 3 votes; Cissy Majebe - 1 vote; and David Burnette - 1 vote.

Councilman McClure asked that Council submit to him by Friday, July 7, 1995, 10-15 names for possible appointments to the Task Force and he would pass the information onto the Steering Committee.

OTHER BUSINESS:

CLOSED SESSION

At 5:25 p.m., Councilman Swicegood moved to go into closed session in order to preserve the attorney-client privilege. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At 6:13 p.m., Councilman Swicegood moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

COMMUNITY MEETING

It was the consensus of Council to hold it's next community meeting on Tuesday, August 1, 1995, in the North Asheville Community Center. The regular worksession will begin at 2:00 p.m. in Room 623 of the City Hall Building on August 1; however, a time has not been established to begin the community meeting.

SCHOOL/PARENTS PANEL

Councilwoman Sitnick briefed the Council on the School Board's meeting at Asheville High last week. She felt the School Board should have developed a process of responding prior to holding their meeting, not after it.

It was determined that City Council would wait to see how the School Board proceeded before taking any action regarding convening a panel of concerned parents to address the Council about their concerns.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 6:30 p.m.

Magdalen Bourleson
CITY CLERK

MAYOR

Tuesday - July 11, 1995 - 5:08 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 5:15 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Gary McClure

INVOCATION

Councilman Watts gave the invocation.

I. PROCLAMATIONS: None.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO AMENDING THE ZONING ORDINANCE TO ADOPT A NEW ZONING DISTRICT, R-3A, RESIDENTIAL SINGLE-FAMILY, HIGH DENSITY

ORDINANCE NO. 2226 - ORDINANCE AMENDING THE ZONING ORDINANCE TO ADOPT A NEW ZONING DISTRICT, R-3A, RESIDENTIAL SINGLE-FAMILY, HIGH DENSITY

Mayor Martin opened the public hearing at 5:11 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Gerald Green, Senior Planner, said that the Zoning Ordinance currently provides for only one single-family zoning district, the R-1 district. This district requires a relatively large lot (12,000 square feet) for homes. Many neighborhoods in Asheville, particularly older neighborhoods, have lots much smaller than 12,000 square feet. A west Asheville neighborhood recently requested rezoning to protect and preserve its single-family character. Application of the R-1 district to their neighborhood would have resulted in the creation of non-confirming lots. At the advice of the Chairman of the Planning and Zoning Commission, the staff pulled the R-3A district standards from the draft UDO to serve this west Asheville neighborhood. The proposed R-3A district is a single-family district with a minimum lot size of 5,445 square feet. The proposed minimum lot size is compatible with the existing lot sizes in many of the City's older neighborhoods. The restriction of uses to single family residential would protect the single-family character of these neighborhoods. This amendment would place the description and standards for the R-3A district in the Zoning Ordinance. Mapping of this district to a certain area(s) would require separate action by the Planning and Zoning Commission and City Council.

The proposed Zoning Ordinance amendment establishing the R-3A zoning district and the standards for this district was recommended for approval by the Planning and Zoning Commission at their June 7, 1995, meeting. It was felt by the Commission that the proposed district would fill a gap in the existing Zoning Ordinance by providing a tool to protect the single-family character of older neighborhoods. The standards established by the proposed ordinance amendment take into account the smaller lot sizes of many of Asheville's older neighborhoods by permitting less restrictive setbacks in addition to the smaller lot

size. Certain non-residential uses, including parks and playgrounds, are permitted uses in the proposed district. Other uses, including churches, day care homes, and home occupations, are identified as conditional uses.

At 5:15 p.m., Councilman Swicegood arrived at the meeting.

Councilwoman Field suggested the minimum lot size be rounded off to 5,400.

Upon inquiry of a member of the audience, Mr. Green said that mobile homes are not a permitted use in this new district.

Mayor Martin closed the public hearing at 5:17 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Sitnick moved for the adoption of Ordinance No. 2226, with the minimum lot size in the R-3A District being 5,400. This motion was seconded by Councilwoman Field.

On a roll call vote of 6-0, Ordinance No. 2226 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 140

B. PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 18 PISGAH VIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Mayor Martin opened the public hearing at 5:18 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

City Attorney Slawter said that Mr. Craig D. Justus, attorney for the petitioner, requested that the public hearing be postponed until July 25, 1995, since it was his understanding that Councilman McClure would be absent from the meeting today. The petitioner would like the opportunity to present its rezoning request in front of a full City Council. A protest petition has been filed for this rezoning and it would take, in the absence of Councilman McClure, a unanimous decision of the City Council to approve his client's rezoning. Consequently, he asked that the public hearing be continued.

Vice-Mayor Peterson moved to continue this public hearing until 5:00 p.m. on Tuesday, July 25, 1995, without further advertisement. This motion was seconded by Councilman Watts and carried unanimously.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS: None

V. CONSENT:

Mr. Ralph Bishop asked City Council what authority they had to change State law, regarding the keeping of full and accurate minutes. City Attorney Slawter stated that there was nothing in the City Council Rules of Procedure that would be inconsistent with State law. Mr.

Bishop also stated that, pursuant to Rule 7 of the City Council Rules of Procedure, he was not given an opportunity to address Council during their Pre-Council meeting.

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON JUNE 27, 1995, AND ITS CONTINUANCE ON JULY 5, 1995

B. RESOLUTION NO. 95-111 - RESOLUTION REAPPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: This resolution will reappoint Harold Garland, Joe Enderle, Kevin Butler and Ray Burleson as members to the Board of Electrical Examiners, to each serve an additional two year term. Their terms will expire on July 1, 1997, or until their successors have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 335

Councilwoman Field moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Swicegood and carried unanimously.

VI. OTHER BUSINESS:

A. GROUP DEVELOPMENTS

Mr. Gerald Green, Senior Planner, said the City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. He said in accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. He said the following actions were taken by the Planning and Zoning Commission on July 5, 1995:

DEERFIELD EPISCOPAL RETIREMENT COMMUNITY

Mr. Green said that Deerfield Episcopal Retirement Community has submitted plans for an expansion of their existing facility located at 1617 Hendersonville Road. This project is proposed to have 2 buildings containing 100 skilled care units and 40 single family "cottages."

The Planning and Zoning Commission held a public hearing to discuss this project at its July 5, 1995, meeting, and no opposition to the proposed project was expressed.

The Planning staff and the Planning and Zoning Commission recommend approval of this group development on the condition that letters indicating adequate water supply and adequate fire protection be received by the developer.

The developer has requested approval of a zoning vested right in accordance with Article 14 of the zoning ordinance. Should the City Council be inclined to grant a zoning vested right, a vote for approval will need to be taken after an advertised public hearing. The granting of a zoning vested right will extend the effective approval of the project from 1 year to 2 years.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

Councilwoman Field moved to set a public hearing on July 25, 1995, on the matter of a zoning vested right. This motion was seconded by Councilman Watts and carried unanimously.

SOUTHRIDGE II RESIDENCE HALL AT UNC-ASHEVILLE

Mr. Green said that this 76 room four-story residence hall will house 150 students on the UNC-A campus. The dormitory will be located adjacent to the existing residence hall near the southwestern corner of the campus.

On June 20, 1995, a notice was sent by the Planning and Zoning Commission to four adjacent property owners making them aware of the public hearing to be held by the Planning and Zoning Commission.

The City Planning staff recommended approval of the project with the condition of a receipt of a letter approving adequate water availability.

At the Planning and Zoning Commission meeting on July 5, 1995, there was no opposition to this proposed group development. The Planning and Zoning Commission reviewed the request and voted unanimously to recommend that City Council approve this group development with the one condition recommended by staff.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

OCCUPATIONAL SERVICES BUILDING AT A-B TECHNICAL COLLEGE

Mr. Green said that A-B Technical College is proposing the construction of a new 33,500 square foot building to house the Occupational Services classrooms. The building is to be located at the intersection of Victoria Road and Oakland Road on the A-B Tech campus. The site is zoned Office Institutional and is surrounded on three sides by Office Institutional zoning and institutional land uses. Zoning to the west of the site is R-2 and a single family neighborhood is located in this area. An existing building, the Hemlock Building, is located on the site and will be demolished to make room for the new structure. A portion of the site is heavily wooded and many of the trees will be preserved and incorporated into the required buffer and street trees. Access to the proposed building will be from Victoria Road and Oakland Avenue. All required services are available to the site. The development complies with all requirements established by the Zoning Ordinance. One neighboring property called to express concern about traffic in the area.

The proposed development was reviewed by the Planning and Zoning Commission at their July 5, 1995, meeting. Following their review of the site plans for the project, the Commission voted to recommend approval with the following condition: receipt of a letter approving a sewer allocation for the project.

Upon inquiry of Councilwoman Sitnick, Mr. Green said that the footprint of the Hemlock Building was approximately 6,000 square feet and the new building would be approximately 12,000 square feet, noting that the developer will try to reserve as many existing trees as possible.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

ADDITION TO TRINITY INDUSTRIES ON BINGHAM ROAD

Mr. Green said that Trinity Industries, Incorporated is proposing the construction of a 36,000 square foot addition to their existing building located on Bingham Road near its intersection with Adams Hill Road. The site is zoned Light Industrial and the proposed use is permitted in this zoning district. Surrounding properties to the north, east, and south are zoned Light Industrial and are occupied by industrial uses. Property to the west of the site is zoned R-5 and is occupied by low density residential development. The site is largely developed and the proposed construction will not have an adverse impact on surrounding land uses. Additional plantings are proposed to buffer the addition from the street and from adjacent land uses. The proposed development meets the requirements of the Asheville Zoning Ordinance.

The proposed development was reviewed by the Asheville Planning and Zoning Commission at their July 5, 1995 meeting. Following their review of the site plans for the project, the Commission recommended approval with the following conditions: (1) Receipt of a letters approving water & sewer allocations and verifying adequate water pressure for fire protection; (2) Receipt of driveway permit for proposed new drive; (3) Provide five parking lot buffer trees adjacent to new parking area on south side of site; and (4) Provide plan showing existing and proposed topography.

The Planning and Zoning Commission recommends approval of the plans for the addition to Trinity Industries with the four conditions.

Council accepted the report of the Planning and Zoning Commission, thereby approving the project by taking no action.

B. RALPH BISHOP

Mr. Ralph Bishop spoke to Council about their obligation to uphold their Oath of Office.

C. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of June 22-28, 1995: Deborah McLaurin (Police), David Jones Jr. (Water), Debbie Kelley (Water), Stoy Lankford (Fire), Courtney Ross (Parks and Recreation), Donna Mills (Fire), James C. Kennedy (Water), Kenndy Igwebuike (Water), Richard Clark (Water), Judy Blackburn (Streets), Dorothy Allen (Streets), and Larry Lindow (Water).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

D. CLOSED SESSION

At 5:43 p.m., Councilman Swicegood moved to go into closed session to in order to preserve the attorney-client privilege. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 5:55 p.m., Councilman Swicegood moved to come out of closed session. This motion was seconded by Councilwoman Sitnick and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:56 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - July 18, 1995 - 2:00 p.m.

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman McClure (arrived at 3:00 p.m.). Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

JOINT MEETING WITH THE ASHEVILLE REGIONAL AIRPORT AUTHORITY

A joint meeting with held with the Asheville Regional Airport Authority to discuss items of mutual interest at the Airport. The parking situation was discussed noting that the parking study should be completed in December.

Councilman Swicegood felt it was very important that all City-owned property at the Airport should be retained for the growth at the Airport.

Discussion was held about the paving operation at the Airport and the two alternatives: a four-day closure vs. a 90-day at night closure and the $300,000 difference between the two. The Airport Authority will be holding a public hearing in September to solicit input from the public on both alternatives.

Mr. Jim Parker, Airport Director, answered questions about the traffic at the Airport and things that the Authority is doing to increase the traffic. He felt that even though June of 1995 was lower than June of 1994, he hoped that 1995 overall will be up approximately 2-4%.

When Councilwoman Sitnick asked what additional security measures would need to be taken at the Airport, if any, as a result of House Bill 90, Mr. Vic Buchanan, Airport Authority attorney, said that this is a matter the Airport Authority will look at because security is a very big concern with the Federal Aviation Administration.

Upon inquiry of Councilman Watts about the limousine service at the Airport, Mr. Parker explained that a contract has been entered into with Anthony Young for that service. He then explained the Airport's policy regarding ground transportation and some of the problems the Airport security has in enforcing that policy.

When Councilman Swicegood asked about the plans for the second runway, Ms. Mimi Cecil, Vice-Chair of the Airport Authority, explained that the second runway is in the Airport's master plan several years (15-20) out.

Ms. Cecil asked Council's support in asking the N.C. Department of Transportation ("DOT") to consider putting in a traffic light at the exit from the Airport on Airport Road near the WNC Agricultural Center and some signage. A study was performed a couple of years ago which DOT said the area did not warrant a traffic light. DOT has agreed to look at the situation again.

Ms. Cecil also asked Council to use whatever means they had to try and re-arrange the center turn lane at the entrance at the Airport.

Mr. Steve Wood, Airport Authority member, asked that the Exxon property be placed on the Airport Authority's lease.

Upon inquiry of Councilman Swicegood, Mr. Parker said that the City-owned property in front of the J&S Cafeteria might benefit the Airport in their long range plans. However, in a short range point of view, it could possibly be used for temporary parking.

CIVIC CENTER CAPITAL IMPROVEMENT SOURCES

Mr. Jim Scott, Civic Center Director, briefed the Council on the various ways that the City might use to obtain funds for capital improvements needed at the Civic Center. He noted some positive points (+) and some negative points (-) that each statement has as follows:

1. City General Fund - this is how current funds are provided.
   - \- Leaves taxes on citizens that may never use facility
   - \- Allows people outside of city free use of facility

2. Operating Profits - traditionally facility has operated at a deficit. But any operating profit could be used for capital improvements.

3. Request funds be appropriated from County
   - \- County turned down in Fall 1994
   - A. One time for specific purpose
   - B. Regular annual amount

4. Ticket Surcharge
   - A. Add 25 cents per paid ticket to ticket price (25 cent tax would yield approximately $50,000 annually)
   - \+ Is simple to compute and add to ticket cost
   - \+ People pay that use facility
   - \- Amount paid does not vary given the ticket cost
   - \- Non-ticketed events do not pay
   - \- Promoters dislike and may go to city without tax
   - B. Charge a percentage of gross sales to promoter
   - \+ As ticket price varies, so does tax
   - \+ People pay that use facility
   - \- Non-ticketed events do not aid in capital improvement
   - \- Promoters dislike and may go to city without tax

5. Rent surcharge/portion of rent designated to capital improvements
   - \+ Easy to start
   - \- Tends to just reduce rental income to facility

6. Hotel/motel tax or other tourist/convention product tax such as restaurants or car rental - Charlotte does this method of general support for its convention and arena facilities
   - \+ Would produce significant money for capital improvement projects
   - \+ Is regular and repetitive
   - \- Resistance from those affected

Mr. Scott said that with the facility working toward self-sufficiency, it is good that we are examining ways the facility to be self supporting in terms of capital improvements. Of all the methods and items discussed above, it is only the ticket surcharge that the Council can unilaterally approve. While this method misses many groups, it is a start and efforts can be made if Council wishes to try other methods of generating income.

Mr. Scott recommended that the City institute a 2% gross receipts tax on ticketed events at the facility with money earmarked for capital improvements. This will bring in approximately $50-$60,000 a year. This method recognizes that ticket prices will vary and produces slightly more income than a flat fee. As many contracts have already been issued for the coming season, Council may want to start the process with the 1996-97 fiscal year. Or, it could be started at any time and phased in.

When Vice-Mayor Peterson asked about how much it would cost to bring the building up to current day standards, Mr. Scott replied $7 Million. Mr. Scott then explained some of the more current renovations needed, i.e., Americans with Disabilities Act, smaller lighting improvements, museum area renovations and Exhibit Hall upgrade.

At 3:00 p.m., Councilman McClure arrived at the meeting.

Councilwoman Sitnick suggested approaching the County again to ask for assistance in renovations of the Art and Mineral Museum space.

Councilwoman Sitnick explained that it is very important for the City to understand where the City stands as a result of House Bill 90 and how we can protect our City employees and City residents. She also expressed concern over the City's liability. When asked by Councilwoman Sitnick about how the Civic Center will be secured with the passage of House Bill 90, Mr. Scott said that the Civic Center will be posted with signs of no concealed weapons. At selected events, they already do pat downs. He said that they will look into the matter.

Upon inquiry of Councilwoman Field, Mr. Scott said that the 2% tax would be charged to the promoter, but ultimately the price would be passed down to the consumer through higher ticket prices.

When Councilwoman Field asked about if there was a need for another room as large as the exhibit hall, Mr. Scott said that if the Civic Center goes after the convention/conference business, and it should, the Civic Center needs to have larger break-out rooms.

Councilman Swicegood moved to place on the Council's next agenda a resolution charging a 2% ticket surcharge on all ticketed events at the Civic Center, with the money earmarked for Civic Center capital improvements. This charge should begin immediately and phase-in during the year. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Councilwoman Field voting "no".

PARADE, PICKET LINES OR GROUP DEMONSTRATIONS AMENDMENT

Police Chief Will Annarino said that in 1994 certain sections of the parade, picket lines and group development section of our ordinance was struck down by a Buncombe County Superior Court Judge. Upon the request of the City, the Buncombe County District Attorney appealed the Court's decision to the N.C. Court of Appeals. Upon appeal to the Court of Appeals, the City, the District Attorney and the N.C. Attorney General's Office mutually agreed to withdraw the appeal. As a result, this amended ordinance was prepared.

The amended ordinance excludes from permit requirements, picketing by less than ten people. The ordinance requires a permit for any group of ten or more. Additionally, there are specific requirements one must following in order to obtain a permit. The ordinance further allows

administrative service fees for the issuance of permits for parades, picket and escort fees.

Councilman McClure asked about the Police Department's experience with parades and picketing since our ordinance was declared invalid. Police Chief Annarino said that people now don't have to tell the Police Department when they are going to protest or picket. However, if this proposed ordinance is adopted, it will require those people, through the permitting process, to make the Department aware of the protest or picket so that the Department can form a plan and be prepared if something should occur.

When Councilman McClure asked the reasoning behind no participation in a parade except during daylight hours, Police Chief Annarino said that was strictly for safety.

Councilman McClure also questioned the provision which requires the picketers to walk in single file not closer together than 15 feet, Police Annarino said that the spacing allows for ingress and egress and room for signs.

Upon inquiry of Councilwoman Sitnick, City Attorney Slawter said that the proposed ordinance does include language prohibiting firearms or dangerous weapons of any kind being carried by any participant in a parade or by any person engaged in picketing.

Councilman Watts moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Councilman Swicegood asked the City Manager for a written report regarding the investigation of missing money at the Civic Center.

DESIGN OPTIONS FOR TRANSIT CENTER

City Manager Westbrook said that the City has recently received additional information on this matter which will need to be evaluated. He asked that this item be removed from Council's agenda and be brought back to Council at a later date.

FIRE CODE AMENDMENTS

Mr. Robert Griffin, Assistant Fire Chief, said that years ago the City of Asheville adopted a "fire code" to prevent destruction, injurious and fatal fires. Asheville's Fire Code was last overhauled in 1965 when City Council adopted the 12-volume National Fire Code by reference for use in Asheville.

The State of North Carolina has since adopted a statewide fire code. The State's Code is based on a model fire prevention code developed by the Southern Building Code Conference International (SBCCI). The SBCCI model code incorporates a number of National Fire Code standards, the National Fire Code itself is not adopted.

In order to provide for a more "user-friendly" fire code, and in order to make certain that Asheville's Fire Code and the State Fire Code are complementary, the Building and Life Safety Division staff of the Asheville Fire Department recommend adoption of the new Asheville Fire Code that would (1) incorporate the State Fire Code; (2) delete adoption by reference of the National Fire Code; and (3) reconcile provisions of Chapter 6 of the Asheville's Code of Ordinances ("Fire Prevention and

Protection"). The revision of Chapter 6 proposed in this ordinance maintains fundamental fire and life safety requirements while reducing the volume of the present Codes and eliminating some of the complexity of the present Codes.

Vice-Mayor Peterson suggested that any fees being considered be brought to the Fees and Charges Committee in the near future.

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilman McClure and carried unanimously.

REGIONAL HAZARDOUS MATERIALS RESPONSES TEAM SERVICE

Fire Chief John Rukavina said that in 1993 the legislature adopted a law that provided for the creation of six "regional response teams" for hazardous materials emergency in North Carolina's six Emergency Management Regions. The N.C. Department of Crime Control and Public Safety's Emergency Management Division has determined that the Asheville Fire Department meets the criteria for assuming the role of "Regional Response Team" for Emergency Management Region F.

This two year agreement would establish the Asheville Fire Department's hazardous materials response team as the regional response team for Western North Carolina. In exchange for response to major hazardous materials incidents in Western North Carolina, the Division of Emergency Management would reimburse the City of Asheville as follows: Training expenses, $10,000 in FY 1996 and $14,000 in FY 1997; team member physical exams, $5,000 in each of FY's 1996 and 1997; administration costs, $12,000 in each of FY's 1996 and 1997; contribution to liability/workers compensation insurance, $10,000 in each of FY's 1996 and 1997; replacement of team equipment and materials when used or consumed at an emergency; use of a response vehicle and equipment for which the state paid $398,000; and reimbursement of repair and maintenance costs for that vehicle. No new additional firefighters will be required is the agreement is entered into.

The additional costs that the City will assume for this service are more than offset by the State's reimbursement plan.

When Councilman Swicegood asked if there were any negative points to this agreement, Fire Chief Rukavina said the only one he could think of would be that no one has any idea how many responses will be required in a year. He guessed at 50-60.

City Attorney Slawter answered Councilman McClure's questions as they related to the City's liability since the City is self-insured.

Fire Chief Rukavina noted that the City will only be called in by the State to control the hazardous materials emergency with no involvement in clean-up or removal.

Upon inquiry of Councilwoman Field of any advantages to this agreement, Fire Chief Rukavina said that the City will have access to a huge data base which we would not be able to afford.

Fire Chief Rukavina answered questions from Councilman McClure about the role of Jerry VeHaun, Buncombe County's Director of Emergency Management.

Vice-Mayor Peterson moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilman Watts and carried unanimously.

AUTHORITY TO PLANNING DIRECTOR AND COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE HOUSING REHABILITATION LOANS

Ms. Julia Cogburn, Planning and Development Director, said that prior to July 1, 1995, the Housing Authority administered the City's housing rehab program. Authority to approve rehab loans had been delegated to the Executive and Deputy Executive Director of the Housing Authority. In order to expedite the loan approval process and to avoid undue hardship to the loan applicants, an expedient loan approval process is needed. These rehab loans normally do not exceed $40,000. Underwriting procedures such as verification of income and credit report review, loan to income ratio, debt to income ratio are conducted by City staff prior to loan approval. The current workload involves 17 homes under construction, 12 loans approved but not under contract, 199 loans are outstanding. The current year goal is to provide loans for 65 housing units. Since 1980 they have only had one loan go into foreclosure. Staff loan approval authority would greatly expedite the loan approval process. Staff recommends authority to approve loans should be delegated to the Planning and Community Development Directors.

Councilwoman Sitnick suggested a meeting with the Housing Authority to answer any questions they might have regarding the City's decision to bring the redevelopment process back into the City. She summarized the reasoning by saying that it was brought back in order to create a solid mechanism of accountability as to how redevelopment funds are spent. She noted that Asheville was the only City in the State that had a combined redevelopment commission and Housing Authority. She stressed that nothing personal was intended in this move. Council felt they needed to be in line with the rest of the State and to be accountable for the redevelopment funds.

Vice-Mayor Peterson also supported a meeting with the Housing Authority stressing that the Housing and Community Development Committee is committed to providing dignified housing to all residents.

Councilman McClure moved to proceed with appropriate action at the next formal meeting. This motion was seconded by Councilwoman Sitnick and carried unanimously.

BELE CHERE FINANCIAL CONTROLS

Mr. Larry Fisher, Finance Director, passed out to Council the current organization chart for Bele Chere 1995, along with other documents which he went through individually. He detailed the four committees of Bele Chere which produce revenue.

When Councilman Swicegood questioned the $56,500 contributions to other funds line item, Mr. Fisher explained that that line item is an accounting mechanism in place used City-wide to pay one fund from another. The $56,500 is the salary of the Festivals Coordinator and his assistant. There was subsequent discussion whether this amount should actually be placed in a line item that more accurately describes what is being charged, for instance "salaries".

Mr. Chip Scott, Festivals Coordinator, answered and explained several questions from Council. Some of those being, what clerical and

logistical support consists of, who hires the Festival Coordinator's assistant and how long that assistant is employed, the purpose of the assistant, the authority to hire an assistant, the bidding process regarding outside printing and electrical work, what constitutes logistics, what items are paid for out of professional services, any thought to privatization, Bele Chere budget expenditures versus revenues, what hospitality training involves, who actually runs Bele Chere, and the role of the Bele Chere Commission.

When Councilman Swicegood asked about the possible conflict of interest with Jim Daniels being Chairman Emeritus and Daniels Printing involvement with Bele Chere, Mr. Scott saw no conflict saying that Daniels Printing receives no cash payment and that it only furnishes in-kind sponsorship.

Upon inquiry of Councilman Swicegood about the use of beer gardens, Mr. Scott said that last year beer gardens were set up but they failed miserably and they will not be set up for this year's festival.

Councilwoman Sitnick asked when the alcohol assessment is done she would like to have a report for Council's review.

Councilwoman Sitnick asked that the people who guard the barricades make sure that business people don't suffer as a result of those barricades being placed close to their businesses, especially the businesses on Hilliard.

When Councilwoman Sitnick asked about security at Bele Chere, as a result of House Bill 90, Mr. Scott said that all available police will be at the festival.

When Councilman Swicegood asked were Bele Chere would be administered from next year, City Manager Westbrook said it would be in the Parks and Recreation Department.

Discussion surrounded the use of the $47,000 surplus from Bele Chere 1994. Mr. Scott said that any surplus from Bele Chere goes into the Festivals Fund which goes to help support other City festivals, such as Discovery Day.

Councilman Swicegood felt that more money could be made in the area of beverage sales. He hoped the Civic Center staff could come up with more creative ways in this area. When he asked how much revenue would be derived from the sale of soft drinks if non-profit organizations were not involved, Mr. Scott explained that the City and the non-profit organizations currently split the profits 50/50 and the 11 non-profits split their 50% eleven ways. This would only result in approximately $10-11,000 additional revenue for the City if the non-profit agencies were not involved.

Mr. Fisher then explained about the Bele Chere bank, noting that every year the City is getting more sophisticated about the Bele Chere bank. A new item which will be undertaken this year is the form which all new potential Bele Chere banker volunteers will have to fill out. It gives the City the authority to conduct a background investigation on that person.

Mr. Fisher also explained another new procedure being undertaken this year. When the Bele Chere banker and a uniformed police officer come to each site to pick the booth's excess money, the money will be counted at the site and inserted in an envelope with specific

information filled in. The envelope will then be taken to the Bele Chere Bank and counted again in the presence of two bankers. This procedure should eliminate any missing money from the site to the bank. Councilman Swicegood felt that some type of receipt should be given to the person at the booth site who first counted the money. Mr. Fisher agreed that some type of carbonized paper could be used on the envelope enabling both parties to have a copy.

Councilman Swicegood suggested letting the local banks in the area handle the Bele Chere Bank. Mr. Fisher felt that would be a wonderful idea, however, even though some banks are sponsors, they cannot come up with the appropriate number of volunteers to man the bank throughout the festival.

Councilwoman Sitnick said she'd like to see more street festivals and more arts and crafts type festivals. She suggested beverage stands sell baby bottles with formula, apple juice or soy milk in them.

Mr. Scott explained to Vice-Mayor Peterson that the title Chairman Emeritus is only an honorary position.

Vice-Mayor Peterson asked for a report on the Bele Chere Festival as soon as the figures were completed.

It was the consensus of Council that Bele Chere is being very well handled.

City Manager Westbrook said that his staff would be happy to sit down with any member of Council to explain any further questions regarding Bele Chere.

Councilman Swicegood felt that Bele Chere needs to stand on its own and taxpayers should not subsidize the festival.

Vice-Mayor Peterson hoped to see any surplus be put back into the General Fund.

Mr. Scott noted that Bele Chere is definitely a money-making festival. It brings in $9-11 Million in Asheville's economy.

CONSENT AGENDA:

Resolution setting a public hearing on August 22, 1995, to close Nichols Street

Resolution setting a public hearing on August 22, 1995, to close a portion of an unnamed alley running south from Aston Street to Hilliard Avenue between Ashland Avenue and Coxe Avenue

Budget amendment to appropriate Fiscal Year 1995-96 Community Development Block Grant Entitlement and HOME Investment Partnerships Program Funds

Summary: The City has received approval from HUD for the 21st Year CDBG Program in the amount of $1,694,000. Program income is estimated to be $130,000. HOME Investment Partnerships Program funds are $1,172,000 and $36,000 of matching funds. The allocation of these funds were approved by City Council on May 9, 1995, by Resolution No. 96-67.

Request for Proposals - City Property Project

Summary: The City of Asheville will be seeking proposals from real estate firms to sell approved properties owned by the City as well as surplus "tax foreclosure lots" within the City of Asheville. The goals of the program are to sell, and/or possibly lease, properties that have been determined by the City not to have any future governmental use and to create an economic development fund from the proceeds derived from such leases or sales.

It is expected that the RFP will be distributed to all agencies listed with the Board of Realtors and published in the newspaper by the end of the week. Selection of the firm or firms will be completed in August. The list of available properties to sell will be finalized by City Council prior to releasing it to the selected firms.

Councilwoman Sitnick wanted to be assured that whatever realtors are hired to market the City property that there is no conflict of interest or perceived conflict of interest. In particular if someone is serving on a City board or commission. Planning Director Julia Cogburn said that she will work with the City Clerk to compare names and if any are found, will bring them to the attention of City Council.

When Councilman Swicegood asked what the status was on three appraisals authorized. Ms. Cogburn said that a firm has been selected and as soon as the contract is signed (which contract is being reviewed by the City Attorney's Office) the firm has 30-45 days to complete all three appraisals.

Agreement with Beaverdam Fire Department for fire protection services in Beaverdam Annexation Area

Summary: In mid-1994 and mid-1995, parts of the Beaverdam Run Subdivision in the Beaverdam community were annexed by the City of Asheville. Subsequent to the effective date of annexation, negotiations were initiated for a fire protection contract between Asheville and the Beaverdam Fire Department for fire protection for Beaverdam Run, and for consolidation of the present contract with Beaverdam Fire Department for the balance of the Beaverdam community annexed in 1991. The total annual cost of this agreement will be $97,078.20 through mid-1999. Funds for implementation of this contract have been budgeted.

Horse Drawn Carriage Regulations Amendment

Summary: Article IV of Chapter 18 of the Asheville Code sets forth regulations for the operation of horse drawn carriages. Section 18-155 sets forth the areas of operation for horse-drawn carriages carrying passengers for hire. A request has been made by a business which desires to provide this service within the Montford Historic District. The Montford Historic District is not now included in the listing of areas of operation set forth in Section 18-155. In addition to that change, the Police Chief is being authorized to review routes for the carriages. The amendment also reinstates the Carriage Permit Advisory Board.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS:

COUNCILMAN FIELD COMMENTS REGARDING VOTING

Councilman Field said that she felt uncomfortable with the voting procedure in worksessions. She noted she had no problem with the process, only the voting procedure.

Councilwoman Sitnick expressed her concerns regarding the worksession rules regarding public comment, and the time in which worksessions begin.

RALPH BISHOP

Mr. Ralph Bishop felt that there should be a law that any adult has the right to carry a gun, whether they have a permit or not. He explained two instances in which, he felt, a gun saved his life.

CLOSED SESSION

At 5:45 p.m., Councilwoman Sitnick moved to go into closed session in order to (1) consult with the City Attorney on matters for which the attorney-client privilege must be preserved, as authorized by G.S. 143-318.11 (a) (3), and (2) instruct the City staff concerning the position to be taken in negotiating the price and other material terms of a proposed contract for acquisition of real property at the Skyland Fire Station and the old Royal Glass building on Coxe Avenue, as authorized by G.S. 143-318.11 (a) (5) (i). This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At 7:25 p.m., Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:25 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - July 25, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilwoman Sitnick gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF AWARD TO MAGGIE O'CONNOR, HISTORIC RESOURCES COMMISSION DIRECTOR

Mayor Martin presented an award to Ms. Maggie O'Connor, Historic Resources Commission Director, for her outstanding work on The Richard Sharp Smith Exhibit.

B. PROCLAMATION PROCLAIMING AUGUST 10-13, 1995, AS "THE NORTH CAROLINA SHAKESPEARE FESTIVAL DAYS"

Mayor Martin proclaimed August 10-13, 1995, as "The North Carolina Shakespeare Festival Days" in the City of Asheville. He presented the proclamation to Mr. Derek Evans, Director of the Diana Wortham Theatre, who thanked Council for their support.

II. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO REZONE 65, 73, 77, 83 AND ONE VACANT LOT ON MONTFORD AVENUE FROM R-4 RESIDENTIAL TO CG COMMERCIAL GENERAL

Mayor Martin said that this public hearing was opened on December 6, 1994, continued until March 21, 1995, May 23, 1995, and then continued until July 25, 1995, in order to give staff sufficient time to work with the community to address the Head of Montford Redevelopment Plan in general.

Mr. Mike Matteson, Urban Planner, briefed the Council by saying that James and Shirley Dozier have requested that two lots (formerly five lots - they were recently combined into two lots) on the east side of Montford Avenue be rezoned from R-4 high density residential to CG commercial general. The area requested for rezoning totals 1.18 acres.

Following the Planning and Zoning Commission's public hearing on October 5, 1994, the Commission voted to recommend approval of the rezoning request with a 4-3 vote. The Planning staff recommends denial of the rezoning request.

After the City Council opened the public hearing on December 6, 1994, a 13 member steering committee (which included Shirley Dozier) was appointed to work with staff in the reevaluation process. Three community meetings and six steering committee meetings were held. Several votes were taken by the steering committee regarding the zoning of the Dozier's property.

At the third steering committee meeting on March 28, 1995, the committee voted to recommend that the properties remain zoned R-4.

At the fourth steering committee meeting on April 6, 1995, the committee voted 7-6 to recommend that the properties be zoned CG commercial general. This vote included the affirmative vote of an individual later found to be a non-steering committee member.

At the final steering committee meeting on June 12, 1995, the committee voted 7-6 to recommended that the properties be zoned NC Neighborhood Commercial.

In the near future the Planning Department will provide Council with information relative to closing out the Head of Montford Redevelopment Plan.

Upon inquiry of Vice-Mayor Peterson, Mr. Matteson explained the different type uses allowed in NC Neighborhood Commercial and the R-4 District.

Mr. Albert Sneed, attorney representing the petitioners, presented Council with a letter dated July 24, 1995, regarding the rezoning of the Dozier property. He reviewed the letter by saying that "The Council will recall that the Doziers have consistently and forcibly maintained that the down zoning of their property in 1984 from CBD to R-4 was improperly obtained. Not only were they threatened personally, their house was set on fire. Despite threats, they steadfastly refused to sign a Petition for Rezoning. On or about July 17, 1995, they received an anonymous call telling them what they should ask for from City Hall. Their initial investigation now reveals that the original down zoning from CBD to R-4 was illegal and improper." The following are attachments to the letter (1) Planning & Zoning Commission minutes of March 7, 1984, which "shows that the rezoning request in 1984 was initiated by a Petition from the Montford Community Club"; (2) Section 30-11-1 of the Zoning Ordinance which "shows that the Community Club has no authority to initiate a rezoning request"; (3) "the alleged petition"; and (4) "a map showing that not more than 51% of the affected property owners signed the Petition."

Mr. Sneed read that "the rezoning request was not only wrong in fact, but it was initiated by an elite group of insiders-illegally. Mr. and Mrs. Dozier respectfully request (1) that Council postpone any decision on the request now pending before it; (2) that Council direct the City Attorney to conduct an honest and impartial investigation to determine: (i) whether or not the rezoning in 1984 was illegally instituted; (ii) whether or not tax lot 91 has ever been legally or illegally zoned anything other than CBD; and (3) Council take such action as is fair and just to rectify any wrongs determined to have been done to the Doziers by the investigation."

Upon inquiry of Mayor Martin, City Attorney Slawter said that since this legal issue has been raised, he felt it should be addressed before proceeding.

Councilman Watts moved to continue this public hearing, without further advertisement, until September 12, 1995, in order to give the City Attorney sufficient time within which to investigate the petitioner's allegations that the original down zoning of their property in 1984 was illegal and improper. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Ms. Mary Jo Brezny also suggested that the Council investigate how and when the property was zoned CBD.

It was noted that copies of the documents submitted by Mr. Sneed to Council would be made available from the Planning Department.

B. PUBLIC HEARING RELATIVE TO REZONING TWO LOTS AT 18 PISGAH VIEW ROAD FROM R-3 RESIDENTIAL DISTRICT TO R-5 RESIDENTIAL DISTRICT

Mayor Martin said that this public hearing was opened on July 11, 1995, and continued until this date at the request of the petitioner.

Mr. Carl Ownbey, Transportation Planner, said that this ordinance would rezone PIN Nos. 9628-09-17-9404 and 9628-09-17-7793 from R-3 Medium Density Residential to R-5 Residential. The subject property is approximately 19.2 acres and is at the southeast corner of the intersection of Pisgah View Road and Cedar Hill Road. The subject property contains two residential structures and two large accessory buildings. The area to the north and west of the property is out of the City's jurisdiction and the area to the south and east of the property is zoned R-3 Medium Density Residential. Directly north and across Cedar Hill Road from the property is a new subdivision for manufactured homes. The 2010 Plan recommends low density residential uses in this area.

The Planning staff reviewed the rezoning request and recommended approval of the rezoning of lot 9628-09-17-9404 and recommended denial of rezoning lot 9628-09-17-7793. At the June 7, 1995, Planning and Zoning Commission meeting, three members voted in favor of rezoning both lots to R-5 and four members voted against the rezoning.

On June 20, 1995, Mr. Craig D. Justus, attorney for the petitioner, appealed the decision of the Planning and Zoning Commission to City Council.

On July 5, 1995, a protest petition was received in the City Clerk's Office which stated "We, the undersigned object to the proposed rezoning of the lots on Pisgah View Road. PIN #9628-09-17-9404; PIN #9628-09-16-7793." Said petition contained 64 signatures. The Planning Department verified the petition and found that the petition was valid, thus requiring a 3/4's affirmative vote of City Council to approve the rezoning request.

Mr. Ownbey said that the week of August 17, 1995, the petitioner modified the rezoning request to no longer request the rezoning of PIN #9628-09-16-7793. The petitioner is now requesting that only PIN #9628-09-17-9404 be rezoned to R-5. The modification also now includes a 101 foot buffer on one half of the north side, all of the east side and a majority of the south side. That buffer reduces the area requested to be rezoned from 19 acres down to approximately 13-1/2 acres.

Upon inquiry of Councilman Swicegood, Mr. Ownbey said that the proposed area to be rezoned is all in the extraterritorial jurisdiction of the City.

When Vice-Mayor Peterson asked if the neighbors were in agreement with the rezoning request as modified, some people in the audience replied that they were not.

Councilman Watts expressed concern over the traffic problems that already exist on Deaverview Road. Since it's not known at this time how many units will be in the proposed mobile home park, if rezoned, Mr. Ownbey was unable to answer questions about additional traffic problems.

Upon inquiry of Councilman McClure, Mr. Ownbey explained the difference between R-3 (which allows 16 units per acre) and R-5 (which allows 10 units per acre for residential uses and also allows for manufactured homes at 6 units per acre). Mr. Ownbey further explained about the water and sewer availability in the area.

Councilman McClure asked about what restrictions there are in the County regarding zoning, such as buffering or landscaping requirements. Mr. Ownbey responded that the County has no restrictions. He said that the proposed mobile home park would have to have a 20 foot buffering strip around it.

In response to Councilwoman Sitnick, Mr. Ownbey said that the school in the area was Johnson Elementary School.

Mr. Craig Justus, attorney representing Triple H Inc., passed out a survey of the property showing the modifications. He reviewed the modifications with the City Council stressing that the community is compatible for a mobile home park because that is what is in the community now. He noted that they met with most of the abutting property owners in the area at the beginning to explain the rezoning request and try to iron out some of their concerns, but were unable to reach some of them. He feels that a lot of people would like the area to remain farm land or with little modifications on it, which is unfair to the property owner. Council should not be looking at the specific use of the property, but instead, what do the districts allow to be constructed on the property. He said that the existing R-3 designation allows 16 units an acre, which on the 19 acres would allow a maximum build out of 304 units. The 13.5 acres on an R-5 designation (which allows 6 units per acre) would allow a maximum build out of approximately 80 units. That is more than three times less than what the maximum build out is on R-3. He didn't foresee any problems with water pressure from using the lines on Cedar Hill Road. He said that sewer is available on Deaverview Road.

Mr. Justus said that he was under the impression that the school district in the area was Erwin and he had been prepared to address the issue of overcrowding in that district. However, as a result of information today, he asked Council to delay their vote until he has had an opportunity to get the information on the appropriate school district for Council's review.

Mr. Richard Harper felt that this mobile home park will help provide low cost housing needed in Asheville. The park will have a full-time manager living there to make sure that the park is neat and taken care of. He gave an example of how they tried to work with the neighbors - a neighbor's sewer system did not work and he agreed that if the project went forward, when the park's sewer system went in, he would give that neighbor an easement to tie into that sewer line. He corrected the statement regarding buffering, noting that the buffer would be 121 feet, not 101 feet.

Mr. Justus clarified the buffering question by saying that 101 feet is what is not being asked to be rezoned. The 20 feet would be within the R-5 district as an additional landscaping buffer as required by the zoning ordinance.

Upon inquiry of Councilman Watts, Mr. Harper said that he owns another mobile home park in Asheville on Overlook Road. Mr. Harper also responded to questions about restrictions of the mobile homes coming into the park and the requirement of skirting - noting that mobile homes are very regulated in the zoning ordinance.

Councilwoman Sitnick read the preamble of Sec. 30-5-6 R-5 Residential District (which includes manufactured homes) which states "These areas should be planned within close proximity to adequate transportation arteries and commercial facilities." She questioned if the site meets that criteria. Mr. Ownbey stated that this property is not on an artery and the closest main artery is Patton Avenue about two miles away. It was Mr. Ownbey's opinion that Patton Avenue was in close proximity to this area.

The following individuals spoke against the rezoning request for several reasons, which include, but are not limited to: the lots should be owned and not rented, the area is already surrounded by trailer parks, people who live on Cub Road are City residents hemmed in by the County and with the County having no zoning restrictions they have no voice in what goes in around them, existing sewer problems, existing traffic problems with congestion and small roads, existing overcrowded school, mobile home parks are nothing like the double-wide community of Cedar Knoll Meadows on the opposite side of Cedar Hill Road, mobile home parks are shabby in appearance, R-5 zoning is not compatible with the neighborhood, leave zoning as is for something better to be developed in the future, existing crime in area, existing water line problems, and mobile home parks devalue surrounding property.

Ms. Catherine Wiggins, resident on Cub Road
Mr. Marvin Hensley, homeowner on Cub Road
Mr. Edsel French, 166 Brookwood and developer of Cedar Knoll Meadows
Mr. Carl Chesick, 66 Cedar Hill Road
Ms. Kimberly Suttles, 215 North Bear Creek
Mr. Webb Morgan, 333 Hi Alta Avenue
Mr. Jack Hensley, 40 Cedar Hill Road
Mr. Don Brooks, 35 Pisgah View Road
Mr. George Haug, 332 Hi Alta Avenue
Ms. Linda Ratcliff, 28 Cedar Hill Road

Upon inquiry of Mr. H. K. Edgerton, Councilman McClure explained that first time home buyers do not qualify for loans under that program for modular homes.

Ms. Doris Kelly, resident of 280 Overlook Road, stated that she lived in the other mobile home park owned by Mr. Harper several years and since that park has been put in, the community has been built up around it. She enjoyed living in the mobile home park and felt that property values in the area could be brought up, if people would allow the parks to be built.

Upon inquiry of Councilwoman Sitnick, Ms. Jane Gianvito Mathews, Planning and Zoning Commission member, explained that the 4-3 vote taken by the Commission was made, she felt, because of similar comments from the surrounding neighbors.

When Councilwoman Field asked Planning & Development Director Julia Cogburn about the complications surrounding split zoned lots, Ms. Cogburn replied that it requires more interpreting of the zoning ordinance.

Councilwoman Sitnick said that "in reading the State statute that permits zoning regulations for manufactured homes, subpart (d) reads 'the City may adopt and enforce appearance and dimensional criteria for manufactured homes. Such criteria shall be designed to protect property values, to preserve the character and integrity of the community or individual neighborhood within the community, and to promote the health, safety and welfare of area residents. The criteria shall be adopted by ordinance.' Do you feel that our criteria for manufactured homes would protect and promote the health, safety and welfare of the area residents? I'm not asking about appearance or dimensional criteria, just the other."

Ms. Cogburn said that Asheville's standards are probably comparable to what you'll find in other parts of the State. Actually, the density for a manufactured home park is six units per acre, not 10 units per acre. She said something could be done with the property left zoned R-3, in accordance with R-3 standards - so that's not necessarily going to be left as a buffer area.

Councilwoman Sitnick noted that this is a request to only change the zoning designation, not to build a mobile home park.

Upon inquiry of Councilwoman Field, Councilman McClure explained how mobile homes are taxed.

City Attorney Slawter said that Mr. Ownbey referred earlier a protest petition that had been filed and he also referenced the 101 foot buffer that has been put into place partially around the property by the applicant for the rezoning. The issue was whether greater than a majority vote would be required in order to pass the ordinance because if you do have an effective protest petition, you have to have 3/4's vote of all Council members, rather than a simple majority. But putting the buffer in place eliminates the effect of the protest, because only people owning property within 100 feet of the property being rezoned can protest and by having a 101 foot buffer, the effect of the protest petition is thus eliminated. Therefore, simple majority would be required, rather than the 3/4's majority.

Councilwoman Sitnick felt very uncomfortable voting on this matter without the school district information.

Mayor Martin closed the public hearing at 6:36 p.m.

Mayor Martin said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Swicegood moved to deny the rezoning request. This motion was seconded by Councilman McClure and carried unanimously.

C. PUBLIC HEARING TO CONSIDER THE GRANTING OF A ZONING VESTED RIGHT FOR DEERFIELD EPISCOPAL RETIREMENT COMMUNITY

Mayor Martin opened the public hearing at 6:40 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that on July 11, 1995, City Council approved the group development of Deerfield Episcopal Retirement Community to expand their existing facility located at 1617 Hendersonville Road, subject to letters indicating adequate water supply and adequate fire protection. A letter has been received relative to adequate water supply. The developer has requested approval of a zoning vested right in accordance with Article 14 of the Zoning Ordinance. The granting of a zoning vested right will extend the effective approval of the project from 1 year to 2 years.

Mr. Ron Brondyke, attorney representing Deerfield Episcopal Retirement Community, explained the need for the zoning vested right.

Mayor Martin closed the public hearing at 6:46 p.m.

Councilman McClure moved to grant the zoning vested right to Deerfield Episcopal Retirement Community, subject to the letter being received regarding adequate fire protection. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

When Councilman Swicegood asked who will be responsible for the road going into the project, Mr. Brondyke replied that their present plan involves using their existing access, however, they do have alternate access potential at Valley Springs and Brackettclub. When asked whose road Valley Springs Road is, Mr. Brondyke said that it is a road within the Town of Biltmore Forest.

III. UNFINISHED BUSINESS:

IV. NEW BUSINESS:

A. RESOLUTION NO. 95-112 - RESOLUTION ASSESSING 2% TICKET FEE ON ALL ASHEVILLE CIVIC CENTER TICKETED EVENTS

Mr. Jim Scott, Civic Center Director, said that the Civic Center opened over 20 years ago and is in need of capital improvements to meet state and federal laws as well as capital improvements that keep the facility current and in good repair. In an effort to reduce direct city subsidy, the Civic Center is requesting Council to pass a resolution assessing 2% ticket fee on all Asheville Civic Center ticketed events. The purpose is to have those people using the facility assist in paying for the needed capital improvements.

Ms. Bernie Wolf spoke in support of the rate increase, however, urged Council to promote events at the Civic Center that are truly civic activities in the sense that they represent the City of Asheville, its goals and citizenship. For example, seven gun and knife shows in this current calendar year are scheduled and only four craft shows. She felt this does not represent our area well.

Mayor Martin said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Swicegood moved for the adoption of Resolution No. 95-112 with said 2% to begin immediately on all new contracts and phased in on all other contracts. This motion was seconded by Vice-Mayor Peterson and carried on a 6-1 vote, with Councilwoman Field voting "no".

RESOLUTION BOOK NO. 22 - PAGE 336

B. AN ORDINANCE AMENDING DIVISION 2, ARTICLE IV (PARADES, PICKET LINES OR GROUP DEMONSTRATIONS) OF CHAPTER 16 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

Major Jay Breedlove said that in 1994 certain sections of the parade, picket lines and group development section of our ordinance was struck down by a Buncombe County Superior Court Judge. Upon the request of the City, the Buncombe County District Attorney appealed the Court's decision to the N.C. Court of Appeals. Upon appeal to the Court of Appeals, the City, the District Attorney and the N.C. Attorney General's Office mutually agreed to withdraw the appeal. As a result, this amended ordinance was prepared.

The amended ordinance excludes from permit requirements, picketing by less than ten people. The ordinance requires a permit for any group of ten or more. Additionally, there are specific requirements one must following in order to obtain a permit. The ordinance further allows administrative service fees for the issuance of permits for parades, picket and escort fees. People now don't have to tell the Police Department when they are going to protest or picket. However, if this proposed ordinance is adopted, it will require those people, through the permitting process, to make the Department aware of the protest or picket so that the Department can form a plan and be prepared if something should occur.

Councilwoman Field asked what would happen if, as a result of an article in the paper, more people showed up at a picket line and a permit was not obtained because they did not anticipate that many. Major Breedlove said that generally people will have some type of ballpark figure when requesting a permit. He said no arrests would be made.

Councilwoman Sitnick hoped that any officer assigned to a parade or picket would be fully aware of the law. She, too, was concerned as Councilwoman Field was about if there would be a problem if more than ten people showed up. She expressed concern about the size of placards and signs not exceeding 2 feet by 2 feet. Regular store-bought posterboard is 28" x 22". That seems to be a problem right there. Most people buy commercially made posterboard unless they are using banners. Also, if a local group is picketing and the local group is part of a national group, what if the national group signs are of a different size than this ordinance allows? Would they not be able to use a sign which comes from their national organization? Also, what about campaign signs. Every campaign buys those posterboards by the box. Will they have to cut off 4" from the 28" side in order to comply? She was sure that there was a reason for 2 feet by 2 feet, but she didn't see that the regular posterboard size of 28" by 24" was that much of difference.

Major Breedlove explained that the sign size is factored in with the space allowed between picketers. In picketing at a specific location, people have to have access and egress from the premises. When people are in a continuous motion, if they are spaced properly, there's 7-1/2 feet between two individuals. Then the signage is factored in. If someone is walking into or out of the area and the sign is too big,

it's probably true to say that someone will get hit by a sign. If any group has a concern about the signage requirement, that is something that would be addressed with the permit was requested. If circumstances warrant that signage of a different size could be allowed, then that would be negotiated. The Police Department's concerns with the size of the signs would be to give people access on public rights-of-way, and that the signs not be able to be used as weapons (sharp pointed ends on them and big enough pieces of wood to actually use as a club if an altercation took place).

Upon inquiry of Councilwoman Sitnick about the spacing requirement, Major Breedlove said that if people were properly spaced when picketing, it would be very likely that those picketers would be in front of the other peoples stores too.

Councilwoman Sitnick questioned the 48 hours advance notice, particularly as it relates to campaigns. Sometimes a candidate might come in on 24 hours or less notice. Would there be some leeway in allowing people to get a permit? Major Breedlove responded that exceptions can be made, however, they need to be made prior to the permit being issued. The Police Department's intent is not to be over burdensome to the public, only to enable them to control situations when negotiable between groups and the public.

At the request of Councilman McClure, Major Breedlove defined a parade is a grouping of people going from one point to another. A picket is defined as to concentrate on a particular activity in a general particular location.

When Councilwoman Sitnick asked how nighttime is determined, Major Breedlove said that it is determined by how dark it is outside. She said that campaigns seem to be the least planned kind of activities that usually have a picketing or a demonstration attached to it. If there is a speech being given at night and people want to go out in either support or opposition of a candidate, would the Police Department be able to grant a permit under certain conditions, keeping the same regulations of this ordinance but with additional safety conditions? Major Breedlove said that this ordinance is only applicable to public thoroughfare of public properties - not to a meeting on private property. He would have to evaluate the circumstances and then determine safety factors and what could be done to accommodate the needs. However, in dealing with these activities for over 10 years, he has found that with political events, they are generally pretty well organized. It's usually those people that have opposing views of whatever that candidate represents who have a tendency to be spontaneous and want things done immediately.

Mr. Tom Roberts, attorney, said that he has some familiarity with the demise of Asheville's last picketing ordinance. He felt the last ordinance was to control what people did in Asheville. The Police Department should be concerned about regulating what's happening on the streets of Asheville, not what's happening on the sidewalks. In the last couple of years, he has not read anything in the paper about problems of people being out of control. The police always have it within their rights to answer complaints of nuisance, disturbance, drunken or disorderly. Parades take place on the street and disrupt traffic and he has no problem with this ordinance as it applies to parades. However, our Police Department should not try and set these parameters on how we can express ourselves and our right to have spontaneous, peaceful expressions on the sidewalk. People should not have to go through the Police Department to get permission to have a

peaceful demonstration, or to be five feet from each other instead of 15, or tell you what size of sign to carry. He felt we are entering an era where less government is better. The government does not have to set all the perimeters for how we can exercise our free speech rights. He feels this is a terrible ordinance as it applies to the sidewalks. We need to be supporting free speech rights.

Mayor Martin asked City Attorney Slawter if this is an unusual ordinance in the State of North Carolina, or does it infringe upon a person's right that he can't act in a spontaneous manner. City Attorney Slawter said that he takes the word spontaneous to mean without some preparation or planning, and no individual would be deprived of that right. When you get ten or more people together, it would require some planning and lack of spontaneity because the 48 hours notice period comes into play. Mr. Roberts is very familiar with the demise of Asheville's ordinance since he defended the person in Superior Court that caused that ordinance to be overturned. That dismissal was subsequently appealed to the Court of Appeals, but in concert with the District Attorney's Office and the Attorney General's Office, it was decided that that appeal would be withdrawn and that the better thing to do was to re-write a new ordinance. The ordinance that has been re-written has been reviewed by those offices and the Attorney General's Office was comfortable with this ordinance. It has provisions which are very similar to provisions that have been upheld by appellate courts throughout the country, including the United States Supreme Court. If there is a specific provision that Mr. Roberts has a particular problem with, he'd be happy to hear from him about that. He doubted that there was a City in North Carolina the size of Asheville or larger that does not have an ordinance.

Vice-Mayor Peterson expressed his concerns with this ordinance regarding free speech issues. He had no problem in permitting parades, but could not support the ordinance as it related to people protesting on the sidewalks in a legal fashion.

Councilwoman Sitnick asked Mr. Roberts' opinion on how he felt about handbills that are, without attribution, hurtful, slanderous or libel. She asked if it's somebody's right of free speech to hurt somebody else, either emotionally or physically. Mr. Roberts responded that he has not researched that case and would not be able to respond.

Councilwoman Sitnick again expressed concern over the 15 feet spacing requirement and also the size requirements.

Upon inquiry of Mayor Martin, City Attorney Slawter said that changing the size of signs to 28" by 24" would not significantly affect the ordinance.

Mayor Martin noted that this ordinance is not unusual throughout the State of North Carolina. It is to regulate people's behavior in certain instances and not intended as an infringement of people's rights. It is a tool to control unusually large crowds, in some cases, and to assist in the safety of the crowd.

When Councilwoman Field asked the City Attorney who was going to define the words "defamatory" and "violence provoking", City Attorney Slawter replied that he was not aware of any legal definitions for those words and that it would require a judgment call to determine whether that was the case.

Councilwoman Field felt that this ordinance does affect people's freedom of speech and we have not published this ordinance anywhere for

anyone to review. Since this was written in-house by the Police Department and the City Attorney's office, there has been no concentrated effort to notify the general public.

Mr. Greg Armento briefed the Council on an incident that had happened to him regarding the Police Department telling him that one person was a parade. He noted the ordinance did not address sandwich boards. He suggested that the City sponsor some kind of electronic bulletin board for items like this.

Mr. Stewart David, coordinator of the Asheville Chapter of the North Carolina Network for Animals, noted that an ordinance should not be written where people are going to be asking for variances because then you're selectively enforcing the ordinance. He read a prepared statement addressing several issues including, but not limited to: no incidents in Asheville since the old ordinance was declared invalid to justify another ordinance, many cities around the state and country do not have similar ordinances including Buncombe County, police have enough laws on the books to enforce order and keep the peace, and the ACLU feels strongly that the ordinance contains unconstitutional provisions and will challenge it if it is enacted. He asked Council not to pass the ordinance at this time. He then gave some examples of legal objections the ACLU has raised.

Mr. Meredith Hunt, representing Life Advocates, said that Life Advocates try to help women in a crisis pregnancy situation and they do this through HelpLine and also by sidewalk counseling. He shared background information with Council on incidents leading up to the old ordinance being declared invalid. He felt that since it was the City Attorney's Office, the Police Department, and the Attorney General's Office of N.C., that said the previous ordinance was constitutional, so he doesn't necessarily trust their opinion on this new one. With over 1-1/2 years of no ordinance in effect there has been no problems with picketing, that could have been corrected by an ordinance. He felt we did not need an ordinance, but did recognize the interest of the City in protecting it's citizens and maintaining order, so he would like to see an ordinance that is as minimal as possible. He had a list of 28 objections to the proposed ordinance, some of which he briefly outlined, which he would provide to City Council. He asked that City Council postpone action on this ordinance and that it be sent back to the City Attorney's Office to meet with his group and some of the civil rights organizations to see whether an ordinance can be drafted in the spirit of cooperation.

Ms. Debbie Wildey said that there are plenty of ways a group could peacefully picket without impeding the public. She felt that this ordinance would definitely impede a group's right to freedom of speech in an effective manner.

Councilman Swicegood moved to table this ordinance until a worksession. After public notice, groups will be invited to meet in order to provide input into the ordinance. After the worksession, a revised draft can then be brought back to City Council. This motion was seconded by Councilwoman Sitnick and carried unanimously.

V. CONSENT:

Resolutions and Motions:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 11, 1995, AND THE WORKSESSION HELD ON JULY 18, 1995

B. **RESOLUTION NO. 95-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE BEAVERDAM FIRE DEPARTMENT TO DELIVER FIRE SERVICES IN THE BEAVERDAM ANNEXATION AREA IN CONNECTION WITH THE ANNEXATION OF BEAVERDAM RUN**

Summary: In mid-1994 and mid-1995, parts of the Beaverdam Run Subdivision in the Beaverdam community were annexed by the City of Asheville. Subsequent to the effective date of annexation, negotiations were initiated for a fire protection contract between Asheville and the Beaverdam Fire Department for fire protection for Beaverdam Run, and for consolidation of the present contract with Beaverdam Fire Department for the balance of the Beaverdam community annexed in 1991. The total annual cost of this agreement will be $97,078.20 through mid-1999. Funds for implementation of this contract have been budgeted.

RESOLUTION BOOK NO. 22 - PAGE 337

C. **RESOLUTION NO. 95-114 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE STATE OF NORTH CAROLINA FOR DESIGNATION OF THE ASHEVILLE FIRE DEPARTMENT'S HAZARDOUS MATERIALS RESPONSE TEAM AS THE REGIONAL RESPONSE TEAM FOR WESTERN NORTH CAROLINA AND FOR REIMBURSEMENT OF THE CITY OF ASHEVILLE BY THE DIVISION OF EMERGENCY MANAGEMENT FOR NEW COSTS ASSOCIATED WITH REGIONAL RESPONSE TEAM STATUS**

Summary: In 1993 the legislature adopted a law that provided for the creation of six "regional response teams" for hazardous materials emergency in North Carolina's six Emergency Management Regions. The N.C. Department of Crime Control and Public Safety's Emergency Management Division has determined that the Asheville Fire Department meets the criteria for assuming the role of "Regional Response Team" for Emergency Management Region F.

This two year agreement would establish the Asheville Fire Department's hazardous materials response team as the regional response team for Western North Carolina. In exchange for response to major hazardous materials incidents in Western North Carolina, the Division of Emergency Management would reimburse the City of Asheville as follows: Training expenses, $10,000 in FY 1996 and $14,000 in FY 1997; team member physical exams, $5,000 in each of FY's 1996 and 1997; administration costs, $12,000 in each of FY's 1996 and 1997; contribution to liability/workers compensation insurance, $10,000 in each of FY's 1996 and 1997; replacement of team equipment and materials when used or consumed at an emergency; use of a response vehicle and equipment for which the state paid $398,000; and reimbursement of repair and maintenance costs for that vehicle. The additional costs that the City will assume for this service are more than offset by the State's reimbursement plan.

RESOLUTION BOOK NO. 22 - PAGE 338

D. **MOTION SETTING A PUBLIC HEARING FOR AUGUST 8, 1995, TO REZONE 35, 37, 43 AND 51 ARLINGTON STREET, 295 CHESTNUT STREET, 289 AND 291 EAST CHESTNUT STREET AND A VACANT LOT ON EAST CHESTNUT STREET FROM R-4 RESIDENTIAL TO CH COMMERCIAL HIGHWAY AND 81 CHARLOTTE STREET FROM CG COMMERCIAL GENERAL TO CH COMMERCIAL HIGHWAY**

E. **MOTION SETTING A PUBLIC HEARING FOR AUGUST 8, 1995, TO REZONE 620 REED STREET AND A PORTION OF A LOT LOCATED AT 526B HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY**

F. **RESOLUTION NO. 95-115 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION**

Summary: This resolution will appoint Chris Knorr to the Asheville-Buncombe Historic Resources Commission to serve a three year term. His term will expire July 1, 1998, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 339

G. **RESOLUTION NO. 95-116 - RESOLUTION AUTHORIZING THE PLANNING DIRECTOR AND THE COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE HOUSING REHABILITATION LOANS**

Summary: prior to July 1, 1995, the Housing Authority administered the City's housing rehab program. Authority to approve rehab loans had been delegated to the Executive and Deputy Executive Director of the Housing Authority. In order to expedite the loan approval process and to avoid undue hardship to the loan applicants, an expedient loan approval process is needed. These rehab loans normally do not exceed $40,000. Underwriting procedures such as verification of income and credit report review, loan to income ratio, debt to income ratio are conducted by City staff prior to loan approval. The current workload involves 17 homes under construction, 12 loans approved but not under contract, 199 loans are outstanding. The current year goal is to provide loans for 65 housing units. Staff loan approval authority would greatly expedite the loan approval process. Staff recommends authority to approve loans should be delegated to the Planning and Community Development Directors.

RESOLUTION BOOK NO. 22 - PAGE 340

Councilman McClure moved to approve the Resolution and Motions Consent Agenda. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

Ordinances:

The ordinance amending the horse drawn carriage regulations was requested to be pulled from the Consent Agenda for discussion by Ms. Virginia Schmidt.

Upon inquiry of Mr. Ralph Bishop about ordinances being placed on the Consent Agenda, City Attorney Slawter said that there was no law saying that they cannot be placed on the Consent Agenda.

A. **ORDINANCE NO. 2227 - BUDGET AMENDMENT TO APPROPRIATE FISCAL YEAR 1995-96 COMMUNITY DEVELOPMENT BLOCK GRANT ENTITLEMENT AND HOME INVESTMENT PARTNERSHIP PROGRAM FUNDS**

Summary: The City has received approval from HUD for the 21st Year CDBG Program in the amount of $1,694,000. Program income is estimated to be $130,000. HOME Investment Partnerships Program funds are $1,172,000 and $36,000 of matching funds. The allocation of these funds were approved by City Council on May 9, 1995, by Resolution No. 96-67.

ORDINANCE BOOK NO. 15 - PAGE 142

B. ORDINANCE NO. 2228 - AN ORDINANCE AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE ENTITLED "FIRE PREVENTION AND PROTECTION"

Summary: Years ago the City of Asheville adopted a "fire code" to prevent destruction, injurious and fatal fires. Asheville's Fire Code was last overhauled in 1965 when City Council adopted the 12-volume National Fire Code by reference for use in Asheville.

The State of North Carolina has since adopted a statewide fire code. The State's Code is based on a model fire prevention code developed by the Southern Building Code Conference International (SBCCI). The SBCCI model code incorporates a number of National Fire Code standards, the National Fire Code itself is not adopted.

In order to provide for a more "user-friendly" fire code, and in order to make certain that Asheville's Fire Code and the State Fire Code are complementary, the Building and Life Safety Division staff of the Asheville Fire Department recommend adoption of the new Asheville Fire Code that would (1) incorporate the State Fire Code; (2) delete adoption by reference of the National Fire Code; and (3) reconcile provisions of Chapter 6 of the Asheville's Code of Ordinances ("Fire Prevention and Protection"). The revision of Chapter 6 proposed in this ordinance maintains fundamental fire and life safety requirements while reducing the volume of the present Codes and eliminating some of the complexity of the present Codes.

ORDINANCE BOOK NO. 15 - PAGE 149

Councilwoman Field moved to adopt the Ordinance Consent Agenda. This motion was seconded by Councilwoman Sitnick.

On a roll call vote of 7-0, the Ordinance Consent Agenda was passed on its first and final vote.

VI. OTHER BUSINESS:

A. ORDINANCE NO. 2229 - ORDINANCE AMENDING HORSE-DRAWN CARRIAGE REGULATIONS

Article IV of Chapter 18 of the Asheville Code sets forth regulations for the operation of horse drawn carriages. Section 18-155 sets forth the areas of operation for horse-drawn carriages carrying passengers for hire. A request has been made by a business which desires to provide this service within the Montford Historic District. The Montford Historic District is not now included in the listing of areas of operation set forth in Section 18-155. In addition to that change, the Police Chief is being authorized to review routes for the carriages. The amendment also reinstates the Carriage Permit Advisory Board.

Ms. Virginia Schmidt, Chairman of the Carriage Permit Advisory Board before it was abolished due to no permits being requested, stated that she felt the Board should have been kept in operation just in case someone in the City applied for a permit. She questioned if a Carriage Inspector has been assigned by the City Manager at this time. She said that the Board only met socially because nothing was going on in the City regarding horse drawn carriages.

Ms. Fairfax Arnold, resident in Montford, said that she will be the one requesting a permit for operation in Montford because she feels this would be a great benefit for the area. She has been in the horse business since the early 1970's.

Upon inquiry of Ms. Debbie Wildey about the City's liability, Mayor Martin responded that this is not a City project it's strictly a private enterprise.

Ms. Elizabeth Simpson, resident in Montford, spoke highly of Ms. Arnold and her ability to care for the horses.

Mayor Martin said members of Council have been previously furnished with a copy of the ordinance and it would not be read,

Vice-Mayor Peterson moved for the adoption of Ordinance No. 2229. This motion was seconded by Councilwoman Field.

On a roll call vote of 7-0, Ordinance No. 2229 passed on its first and final reading.

ORDINANCE BOOK NO. 15 - PAGE 193

B. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of June 29-July 12, 1995: Shirley McClain (Parks), Rhonda Evans (Fire), Kathryn Gragg (Parks), Harriett C. Fleming (Public Works) and Joseph Norton (Police).

He said that these claims would be referred to the Asheville Claims Corporation for investigation.

C. CLOSED SESSION

At 8:06 p.m., Councilman McClure moved to go into closed session to discuss the potential purchase of real estate. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

At 8:22 p.m., Councilman McClure moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 8:22 p.m.

Magdalen Bourneson
CITY CLERK

MAYOR

Tuesday - August 1, 1995 - 2:10 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Vice-Mayor Chris Peterson - Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 2:35 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell Martin

The entire City Council congratulated Councilman and Mrs. Swicegood on the arrival of their new baby boy. Joseph Carr Swicegood III was born on Sunday, July 30, 1995.

BELE CHERE

All of Council expressed their appreciation to Chip Scott, Festival Coordinator, and all the volunteers that made Bele Chere 1995 a success. Members of Council praised the Police Department, Public Works Department and ALE officers for their participation in Bele Chere.

Mr. H. K. Edgerton said that historically the Eagle/Market Street area has been closed off during Bele Chere and requested that further Bele Cheres include the African Americans, in particular by having the Eagle/Market Street be a part of Bele Chere Festival. He also asked that the City contribute more financially to the Goombay Festival in order to make it as much as a success as Bele Chere. He felt that was just another example of exclusion of African American people in the process.

Councilman Watts said that he has addressed the over-crowding issue of the Goombay Festival with Mr. Scott.

FOUR YEAR STAGGERED TERMS

City Attorney Slawter said that the North Carolina General Statutes authorize the City Council to modify the form of city government in several ways by following the same procedure that was followed last year for the change to non-partisan elections. Any such change enacted by the Council may be made subject to a referendum if the Council desires. When the Council previously discussed a change to four-year staggered terms, the Council expressed a desire to place that issue on the November 1995 ballot. A resolution scheduling a public hearing in order to initiate the process is needed to begin that process. This resolution makes no change regarding the term of the Mayor.

He then said that in order to begin the staggered terms, the three members of Council elected to the Council in the 1997 election who received the highest number of votes will serve a term of four years and the other three members of Council elected in the 1997 election will serve a term of two years. As of the 1999 election and thereafter, three Council members would be elected for four year terms every two years. The Mayor's term of office would remain two years.

Councilman McClure agreed that this matter should be placed on the 1995 ballot.

When Councilwoman Field asked if some people could run for two year terms and others run for four year terms, City Attorney Slawter

said that it could be an option, however, this is the most popular way to handle the change.

Councilwoman Sitnick also spoke in favor of putting this issue to a vote of the people. She said that four years would give Council an opportunity to carry forward with new ideas. She felt that a two year term is not enough time to follow through on the many issues that come before the Council. She also felt that the Mayor's term should be four years.

Vice-Mayor Peterson suggested voting separately on the issue of the Council members serving four-year staggered terms and the issue of the Mayor serving a four-year term.

At Councilwoman Sitnick's request, City Attorney Slawter said that of the State's 510 cities, 258 have staggered four-year terms; the next most common term of office is the two-year term, which 214 cities have. Only 26 have unstaggered four-year terms. Of the 22 cities with populations over 25,000, 11 have staggered four-year terms, eight have two-year terms, and three have unstaggered four-year terms.

Councilwoman Sitnick said that to commit for four years is a tremendous sacrifice for people who have to earn a living. She felt that since Council's pay is only $6,000 a year, a lot of people are kept at bay because of personal income loss. She felt that a Council member should not only be the wealthy, elite or retired. She felt that Council's salaries are important and perhaps that should also be addressed on the November ballot. She also felt that the Mayor's job should be full-time.

Councilman McClure moved to proceed with appropriate action at the next Council meeting to initiate the process of placing on the November ballot the issue of four-year staggered terms for Council members. This motion was seconded by Councilman Watts and carried on a 4-1 vote, with Vice-Mayor Peterson voting "no".

Councilwoman Sitnick moved to proceed with appropriate action at the next Council meeting to initiate the process of changing to a four-year term for the Mayor. This motion was seconded by Councilwoman Field and was defeated on a 2-3 vote, with Vice-Mayor Peterson, and Councilmen McClure and Watts voting "no".

Mr. Ralph Bishop felt that it was inconceivable that anyone would run for City government that did not have the time or money.

At 2:35 p.m., Councilman Swicegood arrived at the meeting.

REGIONAL WATER AGREEMENT

Vice-Mayor Peterson stated that this item will be deleted from the agenda until the City Attorney has had ample time within which to review the lengthy agreement.

MIDDLEBROOK/OLD HAW CREEK ROAD INTERSECTION IMPROVEMENTS

Mr. Larry Ward, Assistant Public Works Director, said that in 1995, plans for a single family residential subdivision were submitted for the site on the northwest corner of Old Haw Creek Road and Middlebrook by Biltmore Development Company. In review of the plans, Public Works requested that the developer be required to participate in the intersection improvements in the same 50% manner as the two prior

developers proposed. Since the scope of the developments had changed from apartment complexes to single family subdivision, it was not required that the developer in the cost of the intersection improvements.

The residents of Haw Creek have requested that even though the developer cannot be required to participate, that the City proceed with improving the intersection.

City Engineer has completed detailed plans and cost estimates for the intersection. The developer has agreed to provide the grading for the intersection with the City completing the placement of the stone base and pavement. Utility adjustments would be the responsibility of the utility owner.

It is recommended that Council approve proceeding with the project in this manner. The grading cost are estimated to run approximately $10,000 and the cost to place the crushed aggregate base course, compact it and pave with 2" of I-2 asphalt is estimated to be approximately $10,000. The utility relocations would be at the cost of the utility company. The estimated $10,000 to complete the City's portion of the work is available in the Street Division's current operating budget.

Councilman McClure moved to authorize the City to proceed with this project in the above manner. This motion was seconded by Councilwoman Sitnick and carried unanimously.

Upon inquiry of Mr. H. K. Edgerton, Mr. Ward said that a list of streets to be upgraded in this fiscal year is available in his department.

RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY:

Ms. Danette Thompson said pursuant to procedures established on June 25, 1985, for disposing of personal property valued at less than $500, this report identifies city-owned personal property disposal for the Risk Management and Water Resources Departments during the period of January 1, 1995 - June 30, 1995.

It was the consensus of Council to proceed with the appropriate action at the next formal Council meeting.

OTHER BUSINESS:

Unified Development Ordinance

Councilman McClure said that on August 8, 1995, Mr. Bill Farris will be bringing the unified development ordinance to Council as an update only.

Councilwoman Sitnick complimented Councilman McClure, who is Chairman of the UDO Committee, for keeping the project moving and keeping it open and receptive to public input and comment.

Councilwoman Field was also impressed on how well the process proceeded.

Richmond Hill - Possible Park

Vice-Mayor Peterson said that he has seen preliminary drawings of a futuristic park on a portion of the Richmond Hills property. He asked that the issue be placed on an upcoming Council worksession agenda.

When Councilman Swicegood questioned where does this park fall since Council has requested an appraisal of the property for possible sale, City Manager Westbrook said that once the appraisals are done, Council can decide what they want to sell, if they want to sell, or what portion they want to sell.

Upon inquiry of Vice-Mayor Peterson about the need for a survey, Councilwoman Field said that there is probably a boundary survey available of the Richmond Hills property, but if a park is to be built, a topographical survey will more than likely be needed.

Biltmore Village Request

Vice-Mayor Peterson said that he has received a request from Robert Griffin asking to be placed on a worksession agenda. He will be requesting additional funds from the City in order to make the 50 historical light fixtures sturdier and to get a UL rating on them so as to meet Carolina Power & Light's requirements.

Meetings; Public Information; Agenda Topics

Councilwoman Sitnick asked City Council to consider moving the September 12, 1995, City Council meeting to Randolph Elementary School in the Montford community. She felt that because the rezoning request for the Head of Montford has been delayed on several occasions, she felt Council would be more accessible to the public wishing to attend.

She asked if their was surplus in this year's budget that some be spent on public information. She suggested a weekly information page for citizens.

She then passed out a list of items "to include on the agenda". She briefly explained each of the following items: school summit, meeting regarding picketing ordinance, license tree trimmers, meeting regarding Housing Authority, meeting regarding extra-territorial jurisdiction, information on City arborist, information on impact fees, environmental impact statement, economic impact statement, formal/worksession/straw vote, boards and commissions, "Arnie" slogan contest, and H.B. 90 "Posting" policy.

She said that she and Councilman McClure will be putting together a concept on how the school summit can take place, noting that Council can only listen to citizens and request information from the School Board. Even though City Council does make the School Board appointments, it cannot dictate to them on how to run the school system.

Tourism Development Authority

Councilman Swicegood moved to take appropriate action on the Council's formal agenda to reappoint Loyd Kirk to the Tourism Development Authority, if Mr. Kirk is interested in reappointment. This motion was seconded by Councilwoman Field and carried unanimously.

Ralph Bishop

Mr. Ralph Bishop spoke to Council again about the citizens not being given an opportunity to be heard at worksessions, where he believed all the matters are voted on.

Closed Session

At 3:25 p.m., Councilwoman Sitnick moved to go into closed session to (1) discuss matters related to the expansion of industries in the area served by the City and (2) instruct City staff, regarding position to be taken by City concerning the price and other material terms of property under consideration for purchase by the City; property located at 41 Eve Lake Drive in Asheville. This motion was seconded by Councilwoman Field and carried unanimously.

At 4:01 p.m., Councilwoman Sitnick moved to come out of closed session. This motion was seconded by Councilwoman Field and carried unanimously.

ADJOURNMENT

Vice-Mayor Peterson adjourned the meeting at 4:01 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday, August 1, 1995 - 7:00 p.m.
North Asheville Community Center

Present: Vice-Mayor Chris Peterson - Presiding; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: Mayor Russell Martin and Councilman Joseph Carr Swicegood

The entire City Council congratulated Councilman and Mrs. Swicegood on the arrival of their new baby boy. Joseph Carr Swicegood III was born on Sunday, July 30, 1995.

All of Council expressed their appreciation to Chip Scott, Festival Coordinator, and all the volunteers that made Bele Chere 1995 a success, in particular the Police Department and the Public Works Department.

The following topics were raised by residents and addressed by City Council and City staff: how the 2010 Plan and the visioning process will work together; how can a community become organized to fight the widening of Merrimon Avenue which will change the character of the area; concern about buildings being built behind each other causing more driveways onto Merrimon Avenue; how can the appearance of Merrimon Avenue be improved; how is the sign ordinance enforced; how can the

speed limit on Merrimon Avenue be enforced; the need to stop commercial encroachment into residential areas in North Asheville; the need to fully explore the residential overlay maps with relation to the UDO ordinance; explanation of the unified development ordinance; value of neighborhood input; need for developers and neighbors to try to work out differences; need for transitional zones; concern over Woodfin water quality; the reasoning behind having a primary - just skip the primary and save money; opposition to Johnson Road rezoning; potholes on upper end of Larchmont; appreciation to Police and Community Together (PACT) team; the problems with the school system; and appreciation to City Council for answering questions in an open and honest fashion.

Vice-Mayor Peterson adjourned the meeting at 8:37 p.m.

Magdalen Bateson
CITY CLERK

MAYOR

Tuesday - August 8, 1995 - 5:00 p.m.

Regular Meeting

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; Assistant City Attorney Patsy Meldum; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

INVOCATION

Councilman Swicegood gave the invocation.

I. PROCLAMATIONS:

A. PRESENTATION OF CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING AWARD

City Manager Westbrook presented Finance Director Larry Ward with the Certificate of Achievement for Excellence in Financial Reporting Award. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

He also presented R. Patricia Leckey, City Accountant, with the Award of Financial Reporting Achievement. Ms. Leckey was designated the individual primarily responsible for preparing the award-winning comprehensive annual financial report.

Mr. Joe Elkins and Ms. Dotty Lawing were recognized for their work in achieving the awards.

II. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 35, 37, 43 AND 51 ARLINGTON STREET, 295 CHESTNUT STREET, 289 AND 291 EAST CHESTNUT STREET AND A VACANT LOT ON EAST CHESTNUT STREET FROM R-4 RESIDENTIAL TO CH COMMERCIAL HIGHWAY AND 81 CHARLOTTE STREET FROM CG COMMERCIAL GENERAL TO CH COMMERCIAL HIGHWAY

Mayor Martin said that on August 3, 1995, a letter was received by Gordon S. Myers, Vice-President of Real Estate for Ingles Markets Inc., "withdrawing our request for rezoning those properties on Charlotte Street, adjacent to the site of the former Ingles store."

B. PUBLIC HEARING TO REZONE A ONE FOOT STRIP ON THE EAST SIDE OF 620 REED STREET AND A PORTION OF A LOT LOCATED AT 526B HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY

Mayor Martin opened the public hearing at 5:22 p.m.

City Clerk Burleson presented the notice to the public setting the time and date of the public hearing.

Mr. Paul Benson, Urban Planner, said that M. Realty and Phillip Poulos has petitioned to have rezoned a one foot strip on the east side of 620 Reed Street (M. Realty), and a portion of 526B Hendersonville

Road (Phillip Poulos) be rezoned from R-3 Medium Density Residential to CH Commercial Highway. The one foot strip at 620 Reed Street was denied by City Council in October of 1993 in order to prevent more traffic coming onto Reed Street.

On July 5, 1995, the Planning & Zoning Commission ("Commission") held a public hearing on the rezoning request. Two neighboring property owners spoke in opposition to the proposed rezoning.

After the public hearing, the Commission recommended denial of the requested rezoning. Planning staff recommended that the Poulos property be rezoned with the exception of a one foot strip along Reed Street and that the one foot strip on the M. Realty property remain zoned R-3.

On July 12, 1994, the petitioners submitted a written appeal letter to the City Clerk appealing the Commission's decision to the City Council.

Mr. David Matney, attorney representing M. Realty and Mr. Poulos, said that the only possible use for this area in the back is for staff parking and they need the access onto Reed Street. He said that the M. Realty lot has no effective use as a separate commercial site since the public would not be able to find it. He said that they are requesting this one foot strip along Reed Street be rezoned to CH because since 1993, two other rezonings have come before Council and their properties were zoned right up to Reed Street, without the one foot strip.

In response to Councilwoman Field's question if the majority of the property were rezoned to CH, could it be used for residential, Mr. Matney responded that it could not be. He said that the M. Realty lot is not big enough to build a residence on it at this time. Councilwoman Sitnick said that according to the Planning and Zoning Commission minutes in 1993, the lot is less than the minimum lot size for R-3. Mr. Matney stated again that the lot has no use, at this point, other than staff parking.

When questioned by Councilwoman Field if there were any other uses for that piece of property beside parking, Mr. Benson responded that it could actually be used for residential, since the Commercial Highway district does permit residences. In fact the lot did have a single family residence on it.

Mr. George Morosani stated that the Hendersonville Road Widening Project reduced the parking spaces in the front of his business at 530 Hendersonville Road from 25 to 12 spaces. He then bought the lot behind his building with the thought that it could be used for staff parking. He said that he would deed restrict that land to parking only.

Upon inquiry of Councilwoman Field, Mr. Benson said that City Council rezoned the Leftwich property all the way to Reed Street because his lot didn't front on Hendersonville Road. The only access for his property was on Reed Street.

Ms. Lucille Frady, resident at corner of Reed and Center Streets, presented Council with an original petition from 1993 containing 50 signatures from the residents in the Reed Street area requesting "(1) make necessary repairs to Reed Street from Yorkshire to West Chapel; (2) install a larger drainage system to accommodate increased surface run-off and eliminate flooding; (3) eliminate raw sewage in surface drainage; and (4) install street lights in dark areas of Reed Street." She said that Reed Street cannot handle any more traffic. If a parking

lot is built, it will be more water coming down the street with no where to go. She also presented a petition circulated in the last two days containing 32 signatures opposing this rezoning request.

Upon inquiry of Councilman McClure if the petition presented by Ms. Frady constituted a valid protest petition, Ms. Meldrum said that the petition has to be in two full working days prior to the public hearing and since the public hearing is at 5:00 p.m. on a Tuesday, it would have needed to be in at 5:00 p.m. on Friday. It was her understanding that nothing was filed as of 5:00 p.m. on Friday; therefore, only a majority vote would be required.

Mayor Martin closed the public hearing at 5:37 p.m.

Ms. Meldrum reminded the Council that whenever determining whether or not to rezone property, the Council needs to take into consideration all of the uses that are permitted within the proposed district, rather than the uses for which the property is intended to be used.

Councilman Watts moved to table this action until September 12, 1995, without further advertisement, in order to give City Council an opportunity to visit the site. This motion was seconded by Councilwoman Field and carried unanimously.

Councilwoman Sitnick had no problem with delaying the vote on this matter, but asked that Council keep in mind the prior UDO discussion about delays to property owners and liability to Council as a result of those delays.

III. UNFINISHED BUSINESS: None

IV. NEW BUSINESS: None

V. CONSENT:

Mr. Ralph Bishop felt that the City Council was bypassing Section 9 of the City Charter by having items on the Consent Agenda. He stated in particular Item E - the item setting a public hearing to consider an ordinance amending the charter and related laws of the City of Asheville to provide for four-year staggered terms for City Council.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 25, 1995, AND THE WORKSESSION HELD ON AUGUST 1, 1995

B. RESOLUTION NO. 95-117 - RESOLUTION ACCEPTING A REPORT ON THE DISPOSAL OF CITY-OWNED PERSONAL PROPERTY

Summary: Pursuant to procedures established on June 25, 1985, for disposing of personal property valued at less than $500, this report identifies city-owned personal property disposal for the Risk Management and Water Resources Departments during the period of January 1, 1995 - June 30, 1995.

RESOLUTION BOOK NO. 22 - PAGE 341

C. RESOLUTION NO. 95-118 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Summary: The term of Allen Holden as a member on the Board of Electrical Examiners expired on July 1, 1995. This resolution will

appoint Eugene L. Presley as the electrical contractor to the Board of Electrical Examiners to serve a two year term. His term will expire July 1, 1997, or until his successor has been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 343

D. RESOLUTION NO. 95-119 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE/GREENWAY COMMISSION

Summary: This resolution will reappoint Dennis Wilson and Henry Mitchell and appoint Scott Pierson to the Asheville Tree/Greenway Commission. Their terms will expire August 1, 1998, respectively, or until their successor have been appointed and qualified.

RESOLUTION BOOK NO. 22 - PAGE 344

E. RESOLUTION NO. 95-120 - RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER AND RELATED LAWS OF THE CITY OF ASHEVILLE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR CITY COUNCIL AND CALLING A PUBLIC HEARING ON AUGUST 22, 1995

RESOLUTION BOOK NO. 22 - PAGE 345

F. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, REGARDING CITY PARTICIPATION IN EXPANSION PROJECT OF CARE-FREE WINDOWS, KINCO DIVISION

G. MOTION SETTING A PUBLIC HEARING ON SEPTEMBER 12, 1995, TO REZONE 104 LOTS IN THE VIRGINIA AVENUE AREA FROM R-3 RESIDENTIAL DISTRICT TO R-1A RESIDENTIAL DISTRICT

H. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, TO REZONE THE REMAINING PORTION OF A LOT ON AMBOY ROAD FROM R-3 RESIDENTIAL DISTRICT TO LI LIGHT INDUSTRIAL DISTRICT

I. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, TO REZONE TWO PARCELS AT 720 HENDERSONVILLE ROAD FROM R-3 RESIDENTIAL DISTRICT TO CH COMMERCIAL HIGHWAY DISTRICT

J. MOTION SETTING A PUBLIC HEARING ON AUGUST 22, 1995, RELATIVE TO VARIANCE REQUEST FROM BILTMORE AREA DEVELOPMENT COMPANY TO PERMIT A REDUCTION IN RIGHT-OF-WAY WIDTH FROM 50 FEET TO 40 FEET

Councilman Swicegood moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Field and carried unanimously.

VI. OTHER BUSINESS:

A. COMMENTS BY H.K. EDGERTON

Mr. H. K. Edgerton asked if, in the UDO, the Head of Montford is considered a transitional area. Ms. Julia Cogburn, Planning and Development Director, said that at this point no area in the City has been designated a transitional area.

Mr. Edgerton also asked if there is a precedence for the City entering into economic venture projects with the public or the private commercial sector of the community. He asked if there is a way that the public could enter into a money-making venture with the City. Mayor

Martin didn't think that would be possible; however, he asked the City Attorney to research that question and report back to Council in order that they can respond to Mr. Edgerton.

Councilwoman Sitnick said that the Chamber of Commerce will be sponsoring a trip to the City of Chattanooga in the middle of September. In reading the brochures about that trip, there was mention about some of the development issues that have occurred in Chattanooga between public/private partnerships and she felt that might be what he is referring to. She said that she would be happy to meet with him and share the information she has.

Mr. Edgerton encouraged people to find creative ways to bring in the disadvantaged people into the economic development process.

Councilwoman Sitnick felt that when task force meetings are scheduled from 8:00 a.m. to 10:00 a.m. on a weekday morning, you are automatically undermining the participation of a major sector of our public - people who work. She felt that there were some inherent process problems with the visioning activity that pre-determined cutting off access to a majority of our citizens.

B. GROUP DEVELOPMENTS

City Council adopted a procedure whereby the Planning Director reports final recommendations of the Planning and Zoning Commission relative to group developments at the next scheduled regular meeting of the City Council. In accordance with this procedure, the action of the Commission shall be final unless the City Council determines at their meeting to schedule a public hearing on the matter. The following actions were taken by the Planning and Zoning Commission on August 2, 1995:

RIVER HILLS SHOPPING CENTER (FORMERLY SWANNANOA SHOPPING CENTER)

Ms. Julia Cogburn, Planning and Development Director, said that Collett and Associates, developers of River Hills Shopping Center, have submitted a revised plan for the proposed shopping center. The 39 acre commercial center is to be located at the intersection of Tunnel Road and Swannanoa River Road on a portion of the old Three Mountaineers site. The plan for the development was originally approved by City Council in June 1994. The revised plan proposes a second point of access onto Swannanoa River Road. The access will be right in, right out only, with no left turns permitted. The construction of the proposed access will require the construction of a bridge over the Swannanoa River. A no-rise certificate has been provided for the bridge construction and it has been approved by the Board of Adjustment. The access road design has been approved by the NC Department of Transportation and a driveway permit approved. The parking area and building locations have been adjusted to accommodate the revised traffic flow resulting from the second access road.

The proposed development was reviewed by the Asheville Planning and Zoning Commission at their August 2, 1995 meeting. Following their review of the site plans for the project, the Commission recommended approval with the following conditions: (1) Receipt of a letters approving water & sewer allocations and verifying adequate water pressure for fire protection; (2) Submittal of a revised landscape plan for the project; and (3) Comply with the requirements of the city's Flood Protection Ordinance.

The Planning and Zoning Commission recommends approval of the revised plans for River Hills Shopping Center, showing the new access road which will provide right in, right out only access from Swannanoa River Road. Staff recommendation is for approval with the above conditions.

When Councilwoman Sitnick asked if there were any plans to improve Wood Avenue, Ms. Cogburn responded that she was not aware of any improvement plans.

In response to Councilwoman Sitnick regarding stormwater drainage, Ms. Cogburn said that the developer is working with the City's Engineering Department to try to meet the intent of the ordinance, even though they are not required to comply with our current stormwater regulations ordinance.

Council accepted the report of the Planning and Zoning Commission with the above conditions, thereby approving the project by taking no action.

C. UNIFIED DEVELOPMENT ORDINANCE

Councilman McClure moved to authorize City staff to proceed with the UDO mapping following the UDO that has been written with the recommendations made by the UDO Advisory Committee. This direction is with the understanding that there are going to have to be further review to make sure that legal terms are in place and that the City is in compliance with all existing laws. This motion was seconded by Councilwoman Sitnick.

Councilwoman Field stated that she would like as much public comment as possible so that we can fully evaluate the final document when the time comes. She asked for public comment continually along the entire process. City Manager Westbrook said that the Planning & Development Department intends to have neighborhood meetings, there are required public hearings and Council has recently discussed having worksessions. In addition, Ms. Cogburn said that the Planning staff will bring forward a proposal to City Council on how they plan to proceed in this process, particularly noting the scheduling of public meetings, etc.

Ms. Jane Gianvito Mathews felt that it would be good public policy to hold a public hearing on the recommendations of the UDO Advisory Committee prior to directing the Planning staff to begin mapping. She felt it might be good to have some comment on this body's work prior to actually implementing the districts. There may be some suggestions regarding districts that might refine it somewhat so that staff can do a good job at looking at what they're facing in the next 9-12 months in terms of mapping.

Mayor Martin felt that there would be ample opportunity for comments throughout the process.

Councilwoman Sitnick suggested making the UDO Advisory Committee's recommendations, received earlier today, available to the public. She suggested putting in CityWorks an ad to let people know that the recommendations are available, where they can pick up a copy and where written comments can be sent. She felt this would give people an opportunity to comment early on in the process.

City Manager Westbrook said that this process needs to be structured right so people won't get confused about what stage the

process is in. As the mapping of the districts is started, the neighborhood meetings would begin. At those neighborhood meetings, not only will they review the mapping, but also review the text of the UDO so that literally all over the City people will get a chance to look at the text as well as the mapping. The Planning staff can bring back a consolidated report to the Council with all of that information compiled. Perhaps then Council could hold their worksessions, having that compiled input. Also, staff might have some additional recommendations or changes as a result of those neighborhood meetings. Then, Council could proceed with the public hearings at which time the text and the mapping would be adopted, after all considerations were taken into account.

Mayor Martin asked for a vote on the above motion. Said motion carried unanimously.

D. SUGGESTIONS FOR UPCOMING CITY COUNCIL MEETINGS

Councilwoman Sitnick said that "as you all know I will not be seeking elected office this next go around and I'll enjoy watching those of you who are do it. I would like to ask the Council to consider some of the things that I have subjected you to the last year and a half, with Leni's lists. I'm just going to read these into the record, we're not going to discuss them or anything, I know you're thrilled about that. I would like Council to consider including in the agenda the following issues and items, either in a formal meeting or a worksession. We need a school summit; we've already scheduled a meeting to discuss the picketing ordinance with a number of members of the community who are involved with that; we need to discuss licensing tree trimmers; I'd like a joint meeting of City Council with the Asheville Housing Authority; we've already scheduled a discussion of the extraterritorial jurisdiction; like to have an information session on a City arborist and I've discussed with the Mayor a couple of people who need to be involved with that; I would like to ask that we be given information on impact fees in order to be fair to all of our taxpayers; I'd like to have some kind of a staff discussion on our history and current status and future possibilities involving an environmental impact statement and an economic impact statement as they pertain to development projects; I would like to have a discussion with City Council on boards and commissions apropo of the memo that I handed out a week ago, maybe last week or the week before; I would like to have Council give me a yea or a nay on having a City-wide Arnie contest - Councilman McClure has brought up on a number of occasions, as have others, that we have that system, we've spent the time and effort getting it in place, we might as well use it - I won't sing you my previous suggestions but I'll leave it to the wonderful, creative minds in this community; I think that apropo of Bill Slawter's memo to us of July 28 that, and I'll read this to you 'I have reviewed the concealed handgun bill (House Bill 90). As you pointed out, although it is unlawful to carry concealed handguns into federal and state buildings, the legislation does not contain that prohibition for city and county buildings.' And I'd like to have City Council discuss and perhaps decide on a House Bill 90 posting policy. And the last thing I'd like to include for City Council's consideration is a discussion on the current structure of our meetings on the formal meeting, worksession meeting, straw vote issue. And how that does or doesn't include the public. It's my feeling that holding a meeting does not necessary include the public. One must hold a meeting at a time when the public can attend and I have real concern that most people I know work and 2:00 p.m. is a very difficult and inopportune time to leave work to attend a worksession. At that worksession the public has no opportunity to hear presentations made to Council and a week later

they comment on that issue without hearing the information that we've received which is in part what we base our decisions and our votes on. So I think just to make our process more cohesive, we ought to have a brief, but substantive discussion about how we conduct our meetings. Thank you."

Councilwoman Sitnick also asked that we allow Mr. Robert Griffin to come to a worksession to explain the Biltmore Village historic lights matter.

Vice-Mayor Peterson also reminded Council that a worksession is being set up on the Richmond Hills park matter.

E. RALPH BISHOP

Mr. Ralph Bishop spoke about the need for Council members to faithfully and dutifully carry out their oaths of office.

F. CLAIMS

City Manager Westbrook said that the following claims were received by the City of Asheville during the week of July 13-26, 1995: Deborah Settle (Water), Henri Boseman (Fire), Charles R. Lindsey (Public Works), Brenda Saye (Public Works), Tom Hickman (Water), Hubert Dyer (Streets), Ervin White (Streets), Lori Pate (Water), and Ann Eckerson (Streets).

He also said the following claims have been received from July 27 - August 2, 1995: Damian Keys (Inspections), Elizabeth Tate (Streets), and Martha and Amy Allison (Streets).

He said that these claims would be referred to Asheville Claims Corporation for investigation.

G. CLOSED SESSION

At 6:17 p.m., Councilman Swicegood moved to go into closed session for the purpose of planning, conducting or hearing reports concerning investigations of alleged criminal misconduct regarding Bele Chere. This motion was seconded by Councilwoman Sitnick and carried unanimously.

At 7:38 p.m., Councilman Swicegood moved to come out of closed session. This motion was seconded by Vice-Mayor Peterson and carried unanimously.

VII. ADJOURNMENT:

Mayor Martin adjourned the meeting at 7:38 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday - August 15, 1995 - 2:00 p.m.
Room 623 - City Hall Building

WORKSESSION

Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure (arrived at 2:44 p.m.), Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood (arrived at 2:35 p.m.) and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

FLUSHING PROGRAM

Mr. Mike Brookshire, Civil Engineer in the Water Resources Director, said that the Asheville-Buncombe Water Authority is planning to flush the City of Asheville's water system in November, 1995. The water system has only been flushed once in the past 30 years. Flushing a water system is an activity that is normally accomplished a minimum of once a year. Asheville has not flushed that often and as a result, muddy water is routinely experienced when a water line breaks. This also guarantees that throughout the flushing of the water system, customers will experience water that ranges from slightly discolored to muddy. While the long term positive effects of flushing will far outweigh the temporary negative customer impacts, during the flushing the temporary impacts will be significant. He then gave examples of possible customer impacts.

He then went into detail of the phases of the flushing effort, noting that Phase I (system-wide flushing) will be conduced on November 11 & 12 and November 18 & 19. Phase II, which is localized flushing, will be conducted November 27-December 20.

Beginning in October a massive public education process will begin explaining to customers the ways to prepare for the flushing effort. By informing customers in advance so that they can prepare, the Water Resources Department hopes to significantly decrease the confusion and inconvenience that flushing will cause.

There will also be a hot line and a customer service station set up in City Hall to answer any questions that the public may have concerning flushing.

By cleaning the water system, the Water Resources Department can assure the highest quality of water possible to our customers.

Mr. Brookshire answered several questions from Council which include, but are not limited to, what the sediment is made up of, is there anyway to re-capture the water, why the flushing program is at this time of year and on the weekends and why not pig the lines first (a process that breaks off tubercles inside the water lines).

Ms. Robin Westbrook, Water Efficiency Coordinator, explained the education process which has already begun in the hotel/motel, restaurant and industrial areas in order that they can begin preparing in advance for the flushing effort.

OUTSIDE AGENCY GRANTS

Mr. Bob Wurst, Audit/Budget Director, said that the City Council, during the fiscal 1995/96 annual operating budget deliberations on

outside agency funding, requested that such agencies not be dependent on funding from the City and such funding be in the form of a "grant".

The agencies are as follows: Chamber of Commerce - $90,000; Asheville Area Rescue Squad - $11,250; Community Relations Council - $60,000; Crimestoppers - $18,000; Community Arts Alliance - $20,000; and RiverLink - $4,000.

These agencies which receive funding entered into an annual contract with the City for services to be provided in exchange for the funding. If City Council concurs, a paragraph will be added to the 1995/96 contract as follows: "The _____ (agency name) hereby acknowledges that the funding provided under the terms of this contract is granted for services provided through June 30, 1996, that said funding is subject to annual appropriation by City Council and that there is no commitment on the part of the City to continue said funding beyond June 30, 1996." This language when included in the agreement should put such agencies on notice that future funding is not guaranteed.

Vice-Mayor Peterson requested that the contract spell out how the money will be used and also a requirement in the contract that financial reports be prepared for the City. Mr. Wurst stated that those items are already included in the contracts.

It was the consensus of Council to include the above language in future outside agency contracts.

REVISION OF CERTAIN USER FEES

Mr. Bob Wurst, Audit/Budget Director, said that the User Fee Committee was established to study and recommend establishing or increasing user fees. It has been City Council's policy that costs for services which benefit individuals or companies should be recovered through user fees. This policy minimizes the taxpayer's subsidy to fee based services and allows the City to fund important services without raising tax rates.

During 1994/95 a number of new fees, along with increases in some old fees, have been approved. Revenue from these fees allowed City Council to adopt the fiscal 1995/96 budget with no tax increase and still increase funding for street resurfacing, sidewalk construction and storm drainage improvements.

Additional fees for certain activities in Public Works (estimated $77,000 in new revenues), Parking (estimated $26,000 in new revenues), Privilege Licenses (estimated $25,000 in new revenues) and certain other fee increases are being proposed. These fees are comparable to fees in other cities or local businesses. For example, parking garage monthly rents of $38 are equal to the rates in private downtown garages.

Upon inquiry of Councilwoman Field, Mr. Wurst said that the prior parking deck fees varied because of where the space was located (top deck with no roof, for example), but now that the decks have waiting lists for spaces, the City doesn't feel the need to continue with the varied rates.

Councilwoman Field suggested that an option, and associated fee, be established for a company to request a review of development plans after hours.

Upon inquiry of Councilman McClure about why there was a maximum tax on manufacturers selling at retail, City Attorney Slawter said that state statute requires the maximum tax.

Councilwoman Sitnick requested another Fees & Charges Committee in the near future, at which time the Committee will consider Councilwoman Field's suggestion of after-hour reviews.

It was the consensus of Council to proceed with appropriate action.

EXTRATERRITORIAL JURISDICTION

In response to requests for information by City Council, Mr. Paul Benson, Urban Planner, summarized a report covering the authority and procedures for extraterritorial jurisdiction ("ETJ"), the purpose of ETJ, the ETJ situation in Asheville, and advantages and disadvantages of ETJ regulation for the City of Asheville.

Mr. Benson answered several questions from Council which include, but are not limited to, why the City doesn't automatically extend into the ETJ area after an annexation has taken place, the number of areas that the City could extend their ETJ into at the present time and the need to be clear with the ETJ boundaries.

Councilwoman Sitnick brought out the point that almost 1/3 of the Planning & Zoning Commission members and 1/4 of the Board of Adjustment members are County appointees who vote on City zoning matters - stressing that we are spending City tax dollars for County participation. She wondered if the County appointees should only vote on matters in the ETJ area. She stated that the County is not contributing financially to the City's staff time when they deal with ETJ matters. She feels it is unfair to have City taxpayers paying for County benefits.

Mayor Martin felt that having authority to regulate in the ETJ is a definite advantage for the City because if the area is annexed, problems such as poorly constructed roads, inadequate utility systems, and inappropriate development, will be diminished. Also, if the City doesn't regulate the ETJ area, City residents would be subject to whatever is built next to them in the County.

Upon inquiry of Councilman McClure, City Attorney Slawter said that County residents in the ETJ areas do not pay City taxes nor should they vote.

Councilwoman Sitnick asked for a copy of the State law that requires cities who exercise ETJ to provide county representation on their planning commissions and zoning boards of adjustment. She suggested another discussion on whether it is fair for County appointees to be ruling on matters within the City limits.

It was the consensus of Council to wait before taking in anymore ETJ areas until the UDO process is finished. However, Council instructed staff to include the areas available for ETJ in the mapping process of the UDO. Staff was also instructed to obtain the cost figure of the City's regulation in the ETJ areas and to provide to Council a map roughly showing the one mile area.

CITY HALL ROOF REPAIR

Mr. Irby Brinson, Director of Parks and Recreation, said that the flat roof areas of the City Hall Building were resurfaced when the interior of the building was renovated in 1991. At that time, additional problems were found with the exterior walls. In 1992, Jerry Stockbridge of Wiss, Janney, Elstner Associates, Inc., who is a specialist in historic building restoration, and John Cort, with Cort Architectural Group, were hired to advise the City as to the best approach for resolving problems with the exterior brick and terra cotta tile repairs. Based upon Mr. Stockbridge's recommendation, the vertical wall of the southwest corner of the building was tuckpointed and three lentils were replaced. At that time, open joints in the brick were examined and it was found that steel shelf angles supporting the brick work on the 7th floor were rusting to the extent that the rust was displacing the mortar and causing cracks in the brick work.

In addition, Mr. Stockbridge examined the terra cotta tile on the roof and parapets and indicated that repairs should be made in these areas. Through this investigation, it was determined that pieces of the terra cotta tile were cracked and posed a safety hazard due to the possibility of the tile coming loose and falling to the ground.

The Parks & Recreation staff recommends hiring Mr. Stockbridge and Cort Architectural Group to phase the repair work of the vertical walls and the repairs of the terra cotta roof.

Mr. Dick Meehan, Parks Superintendent, went into detail explaining the complexity of this project and how the project could be phased in which will be cost effective for the City.

Vice-Mayor Peterson suggested the City putting out for bid the architectural work out to bid. He also suggested looking for state grants that might help fund this project since the City Hall Building is a local historic landmark.

It was the consensus of Council to contract with Mr. Stonebridge, to prepare a Request for Proposals for the architectural services, and to look for state grants.

PHASED I ENVIRONMENTAL ANALYSIS

Mr. Ron Fuller, Transportation Planner, said that the NC Department of Transportation (NC DOT), in conjunction with the local Metropolitan Planning Organization (MPO) have been working on a new approach to the planning, public input and selection of transportation improvements. NC DOT has requested that each of the participating member of the MPO review the document and concur with the findings by resolution.

The three main goals of this new planning process are (1) to place more of the public input up front rather than after a corridor or improvement has been selected, (2) involve the various local, state and federal agencies charged with reviewing plans earlier than in the past, and (3) identify corridors that need to be protected from encroaching development. The document identifies five problem areas within the Asheville Urban Area and offers preferred alternatives for each. The five areas are (1) Smokey Park Bridge/Patton Avenue Area and Northwest Connector, (2) Central Business District, (3) Biltmore Village Area, (4) Merrimon Avenue Area, and (5) US 25 in Fletcher. The only corridors upon which concurrence is being requested are (1), (3) and (5) since these involve new locations of improvements.

This analysis is an initial environmental screening of alternative alignments to thoroughfare plan improvements. The result is the selection of preferred corridors for each problem area. Once the project becomes programmed for funding, more detailed documentation will be completed according to National Environmental Policy Act of 1969 (NEPA) guidelines in the Phase II Environmental Analysis: Project Planning. It is also at this stage that decisions regarding mitigation, if necessary, will be made. Both the additional documentation and the mitigation decisions will be conducted on the preferred corridor.

Discussion from Council surrounded the need, or lack thereof, of Smokey Park Bridge/Patton Avenue area project.

Mr. H. K. Edgerton felt that a great deal of local people are shut out of the process when contracts are let for construction on State highways.

It was the consensus of Council to proceed with appropriate action at the next Council meeting.

MINORITY BUSINESS REPORT

Mr. Larry Fisher, Finance Director, said that in his efforts to have quarterly reports made to City Council on minority business participation, a trial report in a new format was introduced for the quarter ending March 31, 1995. The report did not contain construction data due to the fact that subcontractor payments are not identified in the accounting system. The system identifies payments to the prime contractor, therefore we had to design a supplementary system to identify subcontractor payments. With the February 1 implementation of the Amended Minority Business Plan requiring documentation of subcontractor payments by primes, this data will be identified. The Finance Department's Purchasing, Accounting and Information Services Divisions, working in conjunction with the MB Coordinator have refined the existing quarterly report. The report now more accurately and efficiently reflects MB participation since prime contractors are now required to supply a form with their payment requesting documenting payments to minority subcontractors. This form is the source of the construction information included in the report.

Mr. Fisher then briefed the Council on the report which identified participation by (1) certified minority business in four classifications, and (2) minority businesses, both certified and non-certified in those same classifications. Each classification identifies the amount of participation and goal attainment by each minority category. City goals were set by the Amended MB Plan.

When Mayor Martin asked about how the City Council could help the City achieve it's goals, Mr. Fisher replied that helping maintain a fully functional Minority Business Commission would help. Also, Mr. Fisher noted that he would be distributing a list of certified minority businesses to all City department heads. He will request them to encourage their staff to utilize the services of these companies, particularly in the $200 or less purchases which do not go through the Purchasing Division.

Ms. Marilyn Bass, Minority Business Coordinator, answered various questions from Council regarding the idea of a joint City/County Minority Business Commission.

When Mr. H. K. Edgerton suggested that the City develop a bond guarantee program which would help minorities start their businesses,

Mr. Norwood Dunn, Purchasing Director, said that City Council already has the authority to waive bonds and they have done that in the past. Mr. Edgerton also felt that the financial institutions should work closely with the African-American community regarding financing.

AMENDMENTS TO MINIMUM HOUSING CODE

Fire Chief John Rukavina said that during the 1995 session of the General Assembly, two laws were passed that require amendment of Asheville's Minimum Housing Code.

The first, N. C. General Statute sec. 143-138 contains provisions for smoke detectors in rental property that are different from the smoke detector provisions of the Minimum Housing Code. Amendment of the Minimum Housing Code is required, so that rental property owners aren't asked to comply with two different standards.

The second, N. C. General Statute Chapter 113, provides authorization for the City to adopt an ordinance providing for a 30-day demolition period for dilapidated houses meeting certain criteria. This authority was requested of the Buncombe County legislative delegation by the City Council as part of its 1995 legislative request package.

Finally, questions have been raised about the responsibility of the owner of a condominium-type dwelling for Minimum Housing Code violations in that part of the dwelling owned by a homeowner's association. The Minimum Housing Code is not clear with regard to this issue; an amendment is recommended to clarify responsibility.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

BILTMORE FOREST FIRE PROTECTION

Fire Chief John Rukavina said that during the summer of 1994, the City of Asheville submitted a proposal to the Town of Biltmore Forest for delivery of fire protection and emergency medical services to the Town by the Asheville Fire Department. At that time, the Town chose not to pursue this offer. But in April of 1995, Town representatives asked that the City review the possibility of such a fire protection/emergency medical service agreement.

The agreement provides for delivery of fire protection and emergency medical service delivery to Biltmore Forest by Asheville "to the same extent and in the same manner as the City provides such fire and emergency medical services" to persons and property in the City. In return, Biltmore Forest agrees to reimburse Asheville in the amount of $245,247.31 for the service period September 1, 1995, through August 31, 1996. In subsequent service periods, that reimbursement would increase by the estimated annual increase in real and personal property valuation in Biltmore Forest, but never less than $250,000 per service period.

The agreement would be for a term through August 31, 2008. This term includes a three year notice period for Biltmore Forest to re-establish its own fire protection EMS capabilities, should either Biltmore Forest or Asheville choose not to maintain or renew the agreement.

If they choose, Biltmore Forest's five present firefighters could join the Asheville Fire Department, subject to personnel and Civil Service provisions of Asheville's Code of Ordinances, Personnel Policy

and Civil Service rules. These firefighters could fill five present vacancies; execution of this agreement would not require an expansion of the Asheville Fire Department's firefighting forces.

The City would assume responsibility for service delivery, including minimum staffing at Station 5 (Hendersonville Road and Caribou Road, the station that would be the primary responder for Biltmore Forest emergencies), firefighter training, fire response and maintenance of Asheville's present ISO rating.

Biltmore Forest would retain responsibility for fire protection water supplies, water system maintenance, provision of accurate maps to City firefighters and notice of new construction in Biltmore Forest to enable Asheville firefighters to "pre-plan" emergency actions at such new structures.

Fire Chief answered various questions from Council as they related to agreement. Some being, who determines the property values in the Town; how does the single-button transfer capability for transfer of E-911 calls work; why, if the Town's firefighters become City employees, is their sick leave that was accrued when they were employed by the Town, being brought forward and credited to them as City employees; how will the Civil Service process work with the five Town firefighters; if the City's ISO rating exceeds 6%, how will it affect the $250,000 minimum annual payment; why does the nondiscrimination guarantee reads as it does; and, how was the duration of the contract decided.

It was the consensus of Council to proceed with appropriate action at the next formal Council meeting.

CLASSIFICATION STUDY

Ms. Pam McGrayne, Personnel Director, said that the City's classification plan is six years old. Given the numerous reorganizations, reductions in staff and increases/changes in City services over the past several years, a significant portion of the City's workforce is misclassified. This is causing management and employee morale problems. There are also legal risks if the plan is not updated; specifically that the City may not be in compliance with the Equal Pay Act, Fair Labor Standards Act and the Americans with Disabilities Act.

A request for proposals to conduct a comprehensive City-wide pay and classification study was sent out in late 1994. After reviewing the proposals received, staff recommended that an agreement be executed between the City and David M. Griffith & Associates Ltd ("DMG") to conduct a comprehensive City-wide pay and classification study. At that time, staff negotiated with DMG to conduct the study at a reduced cost by utilizing a committee of City employees to help conduct interviews. Funding was not available and the study was not approved.

Funding for a City-wide classification study is included in the Fiscal Year 1995-96 budget. To reduce costs the pay study will be done by Personnel staff. DMG is agreeable to conduct the classification study using the employee committee at its 1994 price.

Ms. McGrayne answered various questions from Council, some being, but not limited to, the number of full-time and part-time employees, if there were any grievances filed as a result of employees working out of classification, and what the City's employee turnover rate is and why.

Upon inquiry of Councilman Watts, Ms. McGrayne said that after the classification study is completed, staff will begin working on a performance appraisal study.

On a 5-2 vote, with Councilmen McClure and Swicegood voting "no", this matter was placed on the next Council's agenda for appropriate action.

CONSENT AGENDA:

Intent to close an alley off Lodge Street at McDowell Street and setting a public hearing for September 26, 1995

Underwriters for Water Revenue Bonds

Summary: At the Council's annual retreat on January 14 and 15, 1995, Council approved the issuance of Water Revenue Bonds to construct new water intake facilities on the Mills River.

Mr. George A. Raftelis of Raftelis Environmental Consulting Group, Inc., has already been engaged by the Water Authority to provide the Financial Feasibility Study that will be required in order to market these bonds. At Council's worksession on March 28, 1995, Council authorized the engagement of Mr. Donald P. Ubell, Esquire, for municipal bond counsel services related to this sale. At that time, it was reported that this sale will also require the engagement of underwriters. At that meeting Council authorized selection of underwriters utilizing a request for proposal process. That process has been completed. The purpose of this report is to recommend to Council as underwriters the firms that ranked highest in the selection process.

The RFP was mailed to 16 firms, 14 responded. All responses were reviewed independently by Mr. Raftelis, Mr. Ubell and Mr. Larry Fisher. Each of these evaluators selected, independently, the same seven firms for a "short list" of oral interview candidates. Oral interviews were conducted with representatives of each of the seven firms in Charlotte, N.C., on July 17, 1995. Mr. Raftelis, Mr. William Schaefer, the City's Capital Projects Coordinator, and Mr. Larry Fisher, conducted and evaluated the oral presentations. Pre-prepared evaluation forms containing evaluation criteria were used by each evaluator. The consensus recommendation of all three evaluators, with concurrence of the municipal bond counsel, is: Alex. Brown & Sons Inc., NationsBank Capital Markets Inc., The Robinson-Humphrey Company Inc.

It was the consensus of Council to proceed with appropriate actions regarding the Consent Agenda items at the next formal meeting.

OTHER BUSINESS: None.

ADJOURNMENT:

Mayor Martin adjourned the meeting at 5:50 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday, August 15, 1995
Buncombe County Courthouse
5th Floor Criminal Superior Courtroom

Joint Meeting of the Buncombe County Commissioners and Asheville City Council

City Council -
Present: Mayor Russell Martin, Presiding; Vice-Mayor Chris Peterson; Councilwoman Barbara Field, Councilman Gary McClure, Councilwoman Leni Sitnick, Councilman Joseph Carr Swicegood and Councilman Herbert J. Watts; City Attorney William F. Slawter; City Manager James L. Westbrook Jr.; and City Clerk Magdalen Burleson

Absent: None

County Commissioners -
Present: Chairman Dr. Gene Rainey; Commissioners Patsy R. Keever, C. Thomas Sobol, David W. Young; County Attorney Joe A. Connolly; County Manager William E. McElrath Jr.; and County Clerk Kathy Hughes

Absent: Commissioner William H. Stanley

Chairman Rainey and Mayor Martin opened the meeting at 6:04.

Chairman Rainey said that since this meeting will only contain discussions between the City Council and the County Commissioners, there would be no public comment taken.

OLD BUSINESS:

Future Meetings

It was the consensus of both bodies to have semi-annual joint meetings. It was agreed that at any time a special meeting was needed, the two boards would meet.

Councilman McClure suggested inviting the other governmental entities in Buncombe County to our joint meetings. The County Manager was instructed to poll the other towns to see if they would be agreeable to a joint meeting.

When Councilwoman Sitnick expressed concern about both bodies meeting on the same day and virtually at the same time, Commissioner Keever felt that no changes should be made until after the election in November.

When Councilwoman Sitnick suggested taking comments from the public at the end of this meeting, Chairman Rainey said that he would take that under advisement.

Joint City/County Building - Parking

County Manager McElrath said that the County did not have any interest in a joint City/County building at this time. However, the County does have an interest in perhaps trading some land, perhaps behind the City Hall Building, for County parking.

City and County staff were instructed to meeting to discuss parking around the City Hall Building and the Courthouse.

City's Animal Control Ordinance

City Manager Westbrook reported that the City has updated its animal control ordinance using much of the language from the County ordinance, where possible.

When Councilwoman Sitnick questioned if the County's ordinance was hard to enforce, County McElrath said that since the enforcement function has been transferred to the Sheriff's Department enforcement seems to have been easier.

Consolidation Issues

County Manager McElrath stated that the County is very much committed to consolidating where possible.

(1) Parks and Recreation consolidation. The County was going to have to pay $250,000 to consolidate and decided not to consolidate with the City.

(2) Flood control is an issue that might be looked at in the future.

(3) Schools consolidation. Mr. McElrath summarized the three ways which the systems could consolidate. He said the most cost effective way would be to have the City School Board dissolve itself. The State Board of Education would then develop a plan for the community.

When it was mentioned that there is no financial savings to consolidate the schools, Commissioner Keever stated several areas in which consolidation would be beneficial to the schools. She stated that saving money is not the only reason to consolidate.

Commissioner Sobol said that there is no consolidated government in North Carolina and only two in the southeastern United States.

Councilwoman Sitnick suggested a meeting with both Schools Boards and both governing bodies to open up the process of consolidation. Commissioner Sobol felt the meeting should be initiated by the two school boards and should be just between the two school boards.

Chairman Rainey suggested a letter be written from him and the Mayor suggesting the two school boards meet.

Commissioner Keever felt that the two school boards might feel like they are forced to meet and preferred to wait until the study is done by the League of Women Voters, which should be completed around May 1996.

Councilman Swicegood said that he would consider the League of Women Voters study, but would not base his decision to consolidate solely on it. He didn't see a reason why the two boards should not meet.

Commissioner Young thought it was a good idea for the two boards to meet, if only to discuss other areas in the school systems which might be beneficial to consolidate.

Chairman Rainey said that he and the Mayor would draft a letter to the two school boards suggesting they meet. However, prior to sending the letter, they will solicit comments from both governing boards.

Chairman Rainey said that the County would look at the consolidation issues at their upcoming retreat.

(4) Joint development of properties for parks and recreation activities. Councilman McClure mentioned that the City is in the process of compiling a list of City-owned properties available for sale. He suggested coordinating this list with the County to see if some of these properties or some of the properties in the County, which they have no use for, could be jointly developed for parks and recreation facilities.

Councilwoman Sitnick stated that the City is looking at tax lots that are not developable. The City is looking at ways to donate those pieces of land to non-profit agencies, such as Affordable Housing Coalition, Magic Gardens, etc., in order to get these properties back on the tax base rather than just spend maintenance dollars. She wondered if there were any County owned lots in the City that have no great value that might have some potential for this idea.

City Manager Westbrook said that he would furnish the County Manager with a copy of our list, when compiled.

(5) Consolidation of emergency communication centers. Councilman Swicegood felt that consolidation in this area would be very beneficial to the City and the County.

(6) Purchasing. It was suggested that purchasing of bulk material might be an area for consolidation. Co-fueling is another possibility. Councilwoman Sitnick presented an article on community sharing tub grinders and hoped the City and the County could share in equipment.

(7) Consolidated governments. Vice-Mayor Peterson felt that the City and the County should seriously consider the idea of one form of government.

Councilwoman Sitnick suggested at the next joint meeting an item be placed on the agenda for discussion of federal spending cuts and how they affect our local governments.

Chairman Rainey said that the consolidated government issue has not been looked at in some time and perhaps this is a good time to bring it back up.

(8) Outside Agencies. Councilman McClure suggested comparing outside agency requests to see if there is any duplication of funds for any given agency. Chairman Rainey suggested that the City and County personnel who work on the outside agencies meet and report back to the joint bodies.

It was the consensus of Council to discuss the items of consolidation only at the next joint City/County meeting.

Youth Council & Programs

Ms. Wanda Greene, Assistant County Manager, briefed the bodies about the progress the County has been making in the area of the Youth Council and programs for the youth.

The County has now hired a full-time person devoted only to the Youth Council and his goal, among others, is to increase participation in this area.

Councilman Watts suggested involving more teachers on the Youth Council.

City's Participation in Economic Development

City Manager Westbrook said that since the City declined joining the County in the Economic Development Commission funding, the City has since adopted its own economic development policy, and is funding industries in concert with the Chamber of Commerce and the County which are located within the City limits. The Council's policy has been that they could have a more effective economic development program operating jointly with the Chamber of Commerce and the County. This ensures that any funds spent were specifically for industries within the City limits.

Commissioner Young and Councilman McClure felt that MSD has been left out of the economic development scheme, even though they greatly benefit from economic development. They suggested a joint City/County resolution be prepared encouraging MSD to participate in and be more responsive to economic development, including adoption of an economic development policy.

Councilman Swicegood suggested the County meet with their MSD board appointees, as did the City, to urge them to run MSD as effectively and as cooperatively as possible.

City Manager Westbrook was directed to draft the joint resolution for Council and Commissioner review.

Councilwoman Sitnick stressed the need for sustainable economic development by visiting not only large industries in the area but the small businesses too.

Newspaper Ad - Joint Venture

County Manager McElrath felt this was an excellent idea, however, the County did not have the funds for this project.

Councilwoman Sitnick said that the City didn't have the funds, but found them. She encouraged the County to find the money in order to let the public know what's going on in their area. She stated that the City Council is committed in keeping the public abreast of who they are and what they're doing.

Mayor Martin suggested the County keeping this matter open.

City's Flow Control and Recycling

City Manager Westbrook said that the City and County have been working on this for some time and thinks they have arrived at a reasonable position. Due to the hiring of Mark Combs, the new Public Works Director, the process has slowed down waiting for him to get up to speed on things and take over this particular negotiating process. Mark's expertise is recycling and sanitation. Mark has already made contact with the appropriate County employees.

Mr. Westbrook said that flow control and recycling are a top priority.

County's Participation in Civic Center

County Manager McElrath said that the City declines to participate any further in the Civic Center. Their obligations, pursuant to the

Water Agreement, are being fulfilled. The County pays the City for space occupied by the Asheville Symphony.

With the County paying $100,000 a year for McCormick Field, they don't feel they want to participate in funding anything more at the Civic Center.

Chairman Rainey pointed out that the Asheville Tourists pump approximately $2.5 Million a year into this community.

At the suggestion of Councilwoman Field, Chairman Rainey said that perhaps the County should revisit the possibility of privatizing the golf course. Commissioner Young noted that the golf course is only one out of many which is self-supporting.

Joint Minority Business Commission

Ms. Wanda Greene, Assistant County Manager, stated that the County is beginning to explore its various options regarding minority business functions. It has set up an African American Business Task Force which will be identifying problems and making recommendations on how the County should be involved in the Minority Business Commission. These recommendations should be available in early 1996.

NEW BUSINESS:

Tax Collector's Reorganization and Progress

Mr. Jerome Jones, Buncombe County's Programs Manager, reported on the re-engineering of the Tax Collector's Office. Tax Collector Elizabeth Taylor has completed the major portions of a complete reorganization of her office. She has reduced her staff by 32% by privatizing collection and billing operations, through the effective use of computer technology and through realigning employees. She has increased her collection rate by .55% compared to Fiscal Year 1994. The 1994 collection rate was 96.30 and the 1995 collection rate is 96.85 - the highest in the history of the Tax Collector's Office. He projected a 98% collection tax rate next year.

Mr. Jones then summarized the tax collection re-engineering project and the community impact.

Aston Park

Councilman Watts asked that the City consider letting the City operate Aston Park. A proposal has been sent to the County and the City hopes the County will act favorably on it.

Buncombe County Health Department

Councilwoman Sitnick said that in distributing Community Development Block Grant funds, many citizens stated that they did not feel comfortable in going to or using the Buncombe County Health Department. She said that even though the City didn't have any money for neighborhood based clinics, they were sensitive to the issues. She asked the County to assess why those feelings are so widespread in the City, noting that it's not only in one area. Rather than duplicating efforts of the Health Department, we would like for the County to investigate these concerns and let the City know what you find out.

Commissioner Keever said that she was a member on the Board of Health and will check into this concern and report back to Council.

Noise Ordinance

Councilwoman Field suggested the City and the County work together on a noise ordinance.

ADJOURNMENT

The joint meeting adjourned at 7:50 p.m.

Magdalen Bamberger
CITY CLERK

MAYOR

CAuth

DEPARTMENT OF CULTURAL RESOURCES

DIVISION OF ARCHIVES AND HISTORY

ARCHIVES AND RECORDS SECTION

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